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FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS UNDER THE RICO STATUTE

HEARINGS

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

APRIL 4, 6, 12, 1989

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FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS UNDER THE RICO STATUTE

TUESDAY, APRIL 4, 1989

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:37 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn (Chairman of the Subcommittee) presiding.

Present: Senators Nunn, Glenn, Kohl, and Roth.

Staff present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Richard A. Dill, Detailee/FBI; Leonard A. Willis, Investigator; Declan Cashman, Staff Assistant; Alan Edelman, Counsel; Kim Wherry, Counsel; Daniel F. Rinzel, Minority Chief Counsel; Barbara Kammerman, Deputy Chief Counsel to Minority; Stephen Levin, Minority Counsel; Carla J. Martin, Minority Assistant Chief Clerk; Robert Harris (Senator Glenn); Steve Ryan (Senator Glenn); Rebecca Bell (Senator Glenn); Eric Whitaker (Senator Rudman); Teressa Marcello (Senator Rudman); Ellice Halpren Barnes (Senator Stevens); Aaron Bayer (Senator Lieberman); Bev Anthony (Senator Kohl); and Rosemary Warren (Senator Sasser).

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive session hearings without a quorum of two members for the administration of oaths and the taking of testimony in connection with hearings on the Federal Government's Use of Trusteeships Under the RICO Statute.

SAM NUNN, *Chairman.*
WILLIAM V. ROTH, JR., *Ranking Minority Member.*

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. The Subcommittee will come to order.

Today, the Senate Permanent Subcommittee on Investigations begins 3 days of hearings on the Federal Government's use of the civil provisions of the Racketeer Influenced and Corrupt Organizations Act, or RICO, as it is commonly known, to impose trusteeships on labor unions and other business entities. This Subcommittee is no stranger to the power of the RICO statute in the battle against organized crime and labor racketeering.

Beginning in the 1950's, this Subcommittee, under the chairmanship of Senator John McClellan of Arkansas, developed a substantial body of information on organized crime in hearings on labor racketeering, as well as interstate gambling; as well as in the 1963 testimony of Joe Valachi. In fact, it was Senator McClellan who, building on the knowledge that came out of those hearings, sponsored the RICO provisions into law as part of the Organized Crime Control Act of 1970.

In the wake of various developments in the RICO statute in recent years, there can be little doubt that RICO's criminal provisions have given Federal prosecutors the ability to launch a sweeping attack on organized crime and labor racketeers. As powerful as these criminal provisions may seem, however, they are only half of the story when it comes to the RICO statute.

RICO provides for civil as well as criminal remedies. While witnesses in our hearings last year applauded the criminal RICO for prosecutions, they added that the job was by no means complete. While criminal cases may put individuals in jail, they do not break the control of organized crime in certain industries. For this task, Federal law enforcement has now turned to the civil side of the RICO statute.

These efforts in that area have generated something truly unprecedented in Federal law enforcement: Government supervision on a long-term basis of labor unions and other business entities which have been unable, or unwilling in some cases, to free themselves from the grip of organized crime. Starting with Teamster Local 560 in 1984, the Justice Department has succeeded through civil RICO suits in creating trusteeships or similar court-monitored supervision in four local unions and one commercial entity, the Fulton Fish Market in New York City.

Just 3 weeks ago, another first occurred in the use of the civil RICO statute. The Government and International Brotherhood of Teamsters agreed to a settlement in the largest civil RICO suit brought to date. In that settlement, which will be the focus of this morning's hearings, the parties have agreed to a type of court-monitored supervision over what the settlement agreement described as "the largest trade union in the free world."

This is undoubtedly a historic agreement, both in the eyes of law enforcement and organized labor, and I am sure we will hear differences as to the way they interpret the background that led to this agreement, as well as perhaps differences in the agreement itself. But that remains to be seen in the testimony.

In bringing these type of cases, the Government has clearly crossed over into a new frontier in law enforcement, injecting itself into the direct supervision of the day-to-day operations of labor unions, and under the broad terms of the statute potentially any other commercial entity, including businesses. Understandably, this new Government role has generated considerable controversy and a host of still unanswered questions, and these questions are certainly among those that will be pertinent to this hearing, although there will be many of them.

Is this type of Government intervention in the private sector ever justified? Are there circumstances that permit this in the course of Government intervention? If so, how does one determine what cases require this admittedly extreme remedy? How do you decide when the Government gets involved in this area?

In the case of labor unions, how does one balance this new Government role with the rights of labor union members themselves? Once a trusteeship is created, how does it operate? And that is something that has not been given much attention. On the third day of our hearings, we will hear from people in that respect. How do you operate a union once you have intervened and the Government has put it under trusteeship? What kind of support does that require? What limits, if any, should be placed on that authority?

Finally, what are the chances that trusteeships will succeed where criminal prosecutions alone have not?

These are just a few of the questions that I hope we will be able to explore during the course of these hearings. They are questions which, given the sweeping and unprecedented nature of this remedy, we believe must be examined in some depth. Along with the considerable power which this remedy affords the Government comes also the responsibility that the power be used wisely, with caution, and only in appropriate circumstances.

I believe that a RICO trusteeship should be sought in only extreme cases and where clearly necessary to root out long-standing and pervasive corruption. That is my going-in feeling as these hearings start. Of course, I will have an open mind as we hear testimony from those who know more details in this area.

In the context of labor unions, a trusteeship must, in my view, always have as its ultimate goal a return to open and honest elections without the fear of intimidation for the rank-and-file members in that union.

The implementation of trusteeships under civil RICO is no longer a novel, one-time experiment. It is quickly being recognized as an extremely valuable part of effective law enforcement. We now have before us a series of cases where not only has this remedy been imposed, but it has been operational for some time. In at least two cases, the remedy has run its full course to a return to the election process. With that track record behind us and with the prospect of a settlement agreement in the Teamsters suit ahead of us, these hearings, we believe, are timely. They provide a means of evaluating not only how effective civil RICO has been in the past, but also where it may be taking us in the future.

To accomplish that task, we will hear on Thursday of this week from those individuals who have served as trustees or administrators in those five cases where the Government has sought and obtained this type of court-monitored supervision. While much has been said about the wisdom of bringing a trusteeship suit in the first place, amazingly little has been said about what really happens once that trusteeship begins to operate.

The testimony we will hear on Thursday should be particularly helpful in determining whether the trustees themselves believe they are adequately equipped to perform the task they have been given. In the context, we will also hear on Thursday from a witness who, as a former union official and associate of La Cosa Nostra crime family, can describe firsthand the kind of corruption and criminal activity that the Justice Department believes makes these trusteeships necessary.

Before we turn to these cases, however, we will hear this morning from the United States Attorney for the Southern District of

New York, and the General President of the International Brotherhood of Teamsters on the details of the agreement they have just reached in the Government's trusteeship suit against the Teamsters. As I understand it, their agreement puts into place a system for court-monitored supervision of the union's activities and makes substantial changes in the union's election process.

I might add, historically, this Subcommittee has on numerous occasions investigated allegations of corruption and organized crime influence within the Teamsters union. In doing so, the Subcommittee has repeatedly expressed its belief that the union must free itself of any association with organized crime in order to adequately serve the interest of many honest and law-abiding rank-and-file members across this country. In fact, four past Teamster presidents have testified either before this Subcommittee or before the Select Committee on Labor and Management, which was created as an extension of this Subcommittee in the 1950's. Specifically, those who have appeared who were past Teamster presidents were Dave Beck in 1957, Jimmy Hoffa in 1958, Frank Fitzsimmons in 1977, and Roy Williams, while a vice president, in 1980.

I am pleased that the circumstances under which we will hear this morning from a fifth Teamster president, Mr. McCarthy, are considerably different from these previous cases. For the first time, we are examining an agreement rather than a disagreement between the Teamsters union and Federal law enforcement officials. For the first time, those parties have agreed to work together to ensure, quoting from the agreement, "that there should be no criminal element or La Cosa Nostra corruption of any part of the International Brotherhood of Teamsters."

In short, some 30 years after this Subcommittee first examined the question of corruption within the Teamsters union, we have before us an agreement which allows direct court supervision of the union's activities, and which is designed to once and for all eliminate any trace of corruption. Will it work? Can it work? These are the questions we will be asking.

While I draw no conclusions about the ultimate success of this agreement, I do express my hope that this document, if backed by the full support and good faith of both parties, may be the start of a new and better day for the 1.5 million—is that right?—Teamster members across this country. And I would add at the very outset, I believe the vast majority of these members are honest, hard-working, and law-abiding American citizens that deserve honest and honorable leadership.

In closing, I would like to thank Senator Roth and the minority staff for their splendid cooperation and support during the course of this investigation. Minority chief counsel Dan Rinzel and minority staff counsel Stephen Levin have been extremely helpful to our staff. The majority and minority have worked closely together in this endeavor.

I do not think Senator Roth has returned. I know he is on an overseas trip. He will be here later this morning, at which time we will have his opening statement.

Senator Glenn, do you have an opening statement?

OPENING STATEMENT OF CHAIRMAN GLENN

Chairman **Glenn**. Just a short statement, Mr. Chairman. Thank you.

Today, the Permanent Subcommittee on Investigations of the Governmental Affairs Committee begins 3 days of public hearings on the use of trusteeships pursuant to the Racketeer Influenced and Corrupt Organizations Act, the RICO Act.

RICO prosecutions and the imposition of civil trusteeships are the most potent weapon available to remove organized crime domination from otherwise lawful business of union organizations. The advantage of these broad remedies is the ability to step beyond a body count of prosecuted individuals and attack the domination of the lawful enterprise.

With the conclusion of the RICO suit against the International Brotherhood of Teamsters, we have now entered uncharted waters. Never before has a court been called upon to monitor in such a broad manner the operation of an international union. The stakes for the future of the IBT, its members, and, in fact, our whole society are very high. Government intervention in union affairs through a trusteeship is bound to be a profound worry.

Unions are a dynamic and vital part of our democracy. No one who viewed the crushing of the free trade union, Solidarity, in Poland in the early 1980's, can view any statist intervention in union affairs just with equanimity. But in our country, the greater damage to union democracy is the continued corrosive impact of organized crime.

La Cosa Nostra seeks to obtain union and business offices as a front for criminal activities. They seek to control and siphon money from the benefit fund, set up by union and management to provide retirement and provide health care for older workers, and they seek to perpetrate their influence by violence or simply by taking away the jobs of those who refuse to keep quiet. In a free society, such criminal activity is as abhorrent as state interference. In fact, it is more so, as far as I am concerned.

Now, I look forward today and over the next week to learning more about the settlement of the civil RICO case against the IBT, the Teamsters. The Government's settlement of that case must balance the competing concerns of rooting out criminal elements while nurturing a free and a democratic union. The truth is that no one from the Government can create a democratic union. The Government trusteeship must make way, as soon as is possible, for the union membership to assert their control over the union. We should remember that the IBT is the women and the men who are its members. Ultimately, it will be their continued and sustained interest in their union which best protects it from organized crime.

Therefore, the Government role must be clearly calibrated to encourage and nurture those members' efforts. Any use of RICO which does not accomplish this is truly counterproductive, and we must learn from each instance where trusteeships have been imposed prior to this time in order to continuously improve our efforts.

Senator Nunn, our Chairman today, I commend your efforts in providing a focal point for the Senate in the examination of the effects of laws that we have enacted to help combat organized crime. You have taken a leadership position through the years in these efforts, and I compliment you for it. Again, I look forward to the testimony we will hear today and in the days ahead on this issue.

Thank you.

Senator NUNN. Thank you, Senator Glenn.

Senator Kohl.

OPENING STATEMENT OF SENATOR KOHL

Senator KOHL. Thank you, Mr. Chairman.

I am pleased that you have scheduled these hearings to examine the Government's use of trusteeships to rid unions and business entities of the influence of organized crime. As a new member of the Senate, I am heartened that Congress does make an effort to revisit laws once they are enacted to ensure that they are working correctly. We in Congress must stay in touch with the real world implications of the measures we pass, and our oversight function is absolutely essential. In particular, laws which attempt to chart a new course in public policy require careful follow-up.

RICO is a perfect example of a statute which is so sweeping in its scope that we must review its implementation to ensure that it is fulfilling its intended purpose. Clearly, the use of court-ordered trusteeships to temporarily govern unions which are infiltrated by organized crime represents an entirely new approach to law enforcement in this Nation, and the matter deserves the attention of this Subcommittee. I commend Senator Nunn for his diligence on this issue.

I would not advocate Government intervention into the affairs of free unions except in the most extreme circumstances. But I do not believe that the Government should sit idly by while organized crime deprives hard-working union members of their dues or benefits, their pensions, and the honest representation they deserve. There is clearly an overriding justification for Government protection of the rank-and-file union members who are being cheated out of their just rewards. I repeat, however, that the rod must be used sparingly and only where entirely consistent with the intent of the law.

I look forward to these 3 days of hearings. I hope to learn more about whether the trustee mechanism is an effective tool against organized crime, and whether any changes are needed to make the RICO law more effective against racketeering.

Thank you, Mr. Chairman.

Senator NUNN. Thank you very much.

This morning, our first witness will be Mr. William J. McCarthy, General President of the International Brotherhood of Teamsters, who will be accompanied by Mr. James Grady, General Counsel to the International Brotherhood of Teamsters. Both Mr. Grady and Mr. McCarthy will be witnesses this morning. Mr. Grady, of course, is the attorney. We normally do not swear in attorneys, but he will also be here as a witness.

Mr. Grady, I know you understand that you will be treated as a witness this morning. I believe Mr. McCarthy has legal advisers who will not be sworn in.

Prior to becoming president in July 1988, Mr. McCarthy had previously held the position of Third Vice President and Vice President of the IBT. He has also been a member of the General Executive Board since 1969. While a member of the IBT, he had also been an international organizer, president of the Joint Council of Ten, Boston, Massachusetts; president of Local 25 in Boston, and a trustee of various benefit plans.

Mr. Grady as General Counsel of the IBT represented the union in the settlement negotiations with the Government, which will be the subject of this morning's hearings.

Gentlemen, we are glad to have you here this morning. If you have other associates you would like to have join you, attorneys, we would be delighted to have them in their capacity as attorneys.

We swear in all the witnesses before our Subcommittee. Therefore, I would ask you to take the oath this morning. Let me just state at the outset that the way we plan to proceed this morning is to hear from Mr. McCarthy and Mr. Grady as to any opening comments they would like to make. Then we will hear from the United States Attorney with opening comments, and then we will call Mr. McCarthy and Mr. Grady back for questions. We will complete their questions and then call the U.S. Attorney back for questions. We have checked on this procedure with both parties. Considering all the circumstances, we think it is the advisable way to proceed.

So, Mr. McCarthy and Mr. Grady, we will ask you to come up, but I will give you the oath before you take your seat.

Do each of you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McCARTHY. I do.

Mr. GRADY. I do.

Senator NUNN. Thank you.

Mr. McCarthy, I believe that this is your first appearance before this Subcommittee. We are glad to have you here this morning, and as I said, we are glad that you are here in a capacity that is materially different from some of the hearings we have had in the past with your predecessors, where we discussed fundamental disagreements. I know there are going to be some disagreements this morning in testimony, but you are here talking about an agreement that has been reached with the Government after a great deal of, I am sure, concern and thought on the part of both parties.

We welcome your statement this morning, Mr. Grady. We welcome you here as a witness this morning, and I would like for you, if you would, to introduce your counsel to the left, who is here as a lawyer, I understand.

Mr. McCARTHY. This is Jim McCall.

Senator NUNN. Mr. McCall, would you give us your law firm and address, please?

Mr. McCALL. My name is James A. McCall, and I am Associate General Counsel of the International Brotherhood of Teamsters; 25 Louisiana Avenue, N.W., Washington, D.C. 20001.

Senator NUNN. Mr. McCarthy, you have the right to consult with your counsel at any time you would like to. If we ask you a question and you would like to consult with your counsel, we will be delighted for you to do that.

Mr. Grady is here as a witness. If he needs counsel, he would also be accorded that right. Mr. Grady, I am sure, is here also as a counsel. So if you would like to consult with either of the parties here before you answer questions, when you get to that part, we will be, of course, pleased for you to do so.

Mr. McCarthy, we would let you lead off this morning with whatever statement you would like to make, or Mr. Grady. Which would you prefer?

Mr. **Grady**. With your permission, Mr. Chairman, I would like to read a joint statement on behalf of both General President McCarthy and myself.

Senator **Nunn**. Fine.

Mr. **Grady**. Thank you.

TESTIMONY OF WILLIAM J. McCARTHY, GENERAL PRESIDENT, AND JAMES T. GRADY, GENERAL COUNSEL, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, ACCOMPANIED BY JAMES A. McCALL, ASSOCIATE GENERAL COUNSEL

Mr. **Grady**. Mr. Chairman and members of the Committee, on behalf of the International Brotherhood of Teamsters, we welcome this opportunity to testify before the Permanent Subcommittee on Investigations concerning RICO and its effect on Federal labor policy and, in particular, its proposed use to impose trusteeships on labor unions.

As undoubtedly you know, the IBT, with more than 1.5 million members, is among the largest labor unions in the free world. By secret ballot, our 1.5 million members elect delegates, who, in turn, elect our international officers. The procedures used by the IBT at our 1986 convention, when most of our current officers were elected, were approved by the Department of Labor and the courts. Yet last June, the Department of Justice, utilizing RICO, brought a lawsuit that sought in effect to disenfranchise our members by displacing every one of those democratically elected officers and replacing them, for an indefinite period, with a so-called "trustee." This trustee, elected by nobody, would have had vast powers to run this union without being accountable to a single member.

We say now, as we said then: the allegations on which that lawsuit was based are false and shameful, and the entire theory of the lawsuit—seeking to disenfranchise 1.5 million workers—was profoundly undemocratic. Nor are we alone in that opinion. Last year, more than half the members of the other house of this Congress, Democrats and Republicans alike, signed a letter opposing the undemocratic theory of this lawsuit.

Fortunately for all concerned, that lawsuit has now been settled without the removal of our officers and without the appointment of a trustee. Nonetheless, our experience in defending that lawsuit has given the IBT a unique perspective on the dangers of RICO in the labor context.

While our experience makes it abundantly clear that RICO generally, and a trusteeship in particular, are poor tools to deal with issues of internal union participation and democracy, our remarks today will focus on three specific ways in which the law ought to be clarified to limit RICO's disruptive effects on Federal labor policy and on the legitimate rights of unions. These are: First, RICO should be clarified to preclude the imposition of those remedies, such as the kind of trusteeship originally sought in this case, that contravene established doctrines of Federal labor law and union democracy; second, Congress should prohibit the imposition of any form of trusteeship over a union prior to a full evidentiary hearing on the merits of the underlying allegations; third, no union ought to be precluded from using its resources to hire legal counsel to defend both itself and its officers acting in their official capacities.

Before discussing each of these points, we would like to briefly comment on the settlement entered into in our case and approved by Judge David Edelstein:

There is a natural tendency in high visibility lawsuits of this kind for both sides to want to fight it out to the final round, even if it takes many years and millions of dollars. For our part, we felt strongly that the allegations against us were false, and that in the crucible of a trial we could put to rest the myths that some people hold about our union. But in the course of negotiations, both sides came to realize that neither the union's interests, nor the Government's interest, nor, we venture to say, society's interests are well served by continuation of a seemingly interminable warfare between the Department of Justice and the IBT. And the result was that each side came to a grudging acceptance of each other's legitimate interests and entered into a settlement that attempts to accommodate those interests.

Obviously, the Government's chief interest is in rooting out corruption. While in any group of 1.5 million people there are bound to be some bad apples, we think the allegations regarding corruption among some of our members are vastly at variance with the facts. Nevertheless, we welcome the opportunity provided by this settlement to put in place persons and procedures that will have the power to promptly root out any corruption as may exist. This, we think, will more than satisfy any legitimate interest of the Department of Justice in the affairs of our union.

On the other hand, the IBT's strongest interests were in maintaining union democracy and preserving our independence as a free institution. In recognition of these values, the settlement effectively rejects the call for a court-appointed trustee to supervise the day-to-day operations of the IBT. Instead, it retains union self-government and makes the IBT and the Government partners in protecting and expanding the rights of participation of the rank-and-file members. Likewise, the settlement does not call for the removal of any IBT officer. Instead, the settlement specifically recognizes that nothing in it should be construed as any admission of wrongdoing on the part of any IBT officer.

We believe that both the Government and the union have learned from this litigation that an adversarial relationship between labor and Government is unhealthy for labor, for Government, and for the country. But we are not so naive as to believe that there may not be future controversies between Government and unions over some of the same issues raised in our case. Therefore, we would take this opportunity to propose three changes, or perhaps clarifications, of the law which, we submit, would go a long way toward accommodating each of the legitimate interests just discussed—that is, the Government's interest in rooting out corruption and a union's interests in maintaining democracy, accountability, and independence.

First, RICO should be clarified to preclude the imposition of those remedies, such as the kind of trusteeship originally sought in this case, that contravene established doctrines of Federal labor law and union democracy. The wholesale removal of a union's elected officers and their replacement, for an indefinite period, by a court-appointed trustee is inconsistent with Federal labor policy, denies union members rights of participation and accountability, creates an ongoing adversarial relationship between unions and the Government, and ultimately does not work. It ought to be removed from the arsenal of remedies available under RICO.

Of course, RICO itself does not expressly provide for such a remedy. But the Government finds such authority implicit in RICO's very broad language: language, we might add, that has increasingly drawn criticism not just from labor but also from business and professions and most of the private institutions of our society. In the case of a union trusteeship, the flaw in trying to read such a remedy into RICO is that it flies in the face of established Federal labor policy, which seeks to strengthen union democracy from within rather than impose solutions from without.

For example, in enacting the Landrum-Griffin Act—an act specifically aimed at allegations of internal union abuse and corruption—Congress explicitly rejected any direct role for the Government in running a union and chose, instead, to strengthen union democracy from within by prescribing rules and procedures to ensure free elections, participatory rights, and other guarantees of union self-government. As stated by the Supreme Court, Congress's guiding principle in enacting Landrum-Griffin was to leave unions free to "operate their own affairs as far as possible." *Steelworkers* v. *Sadlowski*, 475 U.S. 102, 117 (1982).

We might add that the Government's complaint in our case charged us solely with violations of RICO and not with any violation of Landrum-Griffin or any other Federal labor law. And the reason for that, I suggest, is that Federal labor law is fundamentally at odds with the gloss the Department of Justice has tried to place on RICO. Through RICO, and especially through the vehicle of a court-imposed trustee, Federal prosecutors are attempting to impose the sort of outside Government regulation of unions that Congress rejected when it passed Landrum-Griffin.

Particularly as applied to an international union, a court-imposed trustee also runs contrary to Congress's determination that the autonomy of union locals ought to be strengthened. For example, in enacting Landrum-Griffin, Congress strictly limited the circumstances in which a union international can itself impose a union trusteeship over one of its own locals, the theory being that local autonomy is the key to true participatory democracy.

In the case of the IBT, we are, in fact, a highly decentralized union, with most power vested at the local level. Each of our more than 650 locals elects its own officers, handles its own finances, processes its own grievances and complaints, and to a substantial degree undertakes its own collective bargaining. The overwhelming majority of allegations made in the Government's complaint in our case related to past misconduct at a tiny handful of our locals. And yet the complaint went on to allege that because the international union, following Landrum-Griffin, did not automatically move to place these locals in trusteeship, the international was itself guilty of a RICO violation and ought itself be placed in trusteeship. We submit this is a "Catch-22" of the worst kind: If you comply with Landrum-Griffin, you allegedly violate RICO, and vice versa. Congress ought not to allow RICO so to be perverted so as to undercut the more specific Federal labor policies promulgated through Landrum-Griffin and other Federal labor laws.

As mentioned, a "trusteeship" imposed under RICO would also obliterate the rights of union members, secured under Title I and Title IV of Landrum-Griffin, to govern their own union, set the policies of their union, and select their union representatives. Such a trusteeship also creates an unnecessary and harmful adversarial relationship between the Government and the union rank-and-file. A good example is the very first RICO trusteeship ever imposed on a union local and, so far as we are aware, the only union trusteeship ever imposed on any union local except by consent, and that is the trusteeship over IBT Local 560. There were undoubtedly some bad apples among the members of that local, but the Government, not content with prosecuting those persons, used RICO to place the entire local in the hands of a court-appointed trustee. Originally, this trustee was only supposed to remain for a few months until new elections could be held. But when the first trustee, appointed without any input from the union, nonetheless proved sympathetic to the rank-and-file, he was removed and a more prosecutorial trustee appointed. Finally, after more than 2 years, a new election was held with 3 slates of candidates and careful monitoring by the Government. And, lo and behold, the slate of candidates most opposed to the entire trustee approach was overwhelmingly elected.

This, we suggest, is the inevitable outcome when the Government, rather than trying to help democracy within a union, tries itself to run the union through a trusteeship. Union members need to know that their leaders are working for them. A trustee, whose role is that of a "cop," cannot obtain the loyalty and support of the rank-and-file membership. Indeed, as the experience with Local 560 makes clear, a RICO trustee is likely to become a symbol of oppression and the rallying point for a counter force.

Is it any wonder, then, that Federal judges have themselves become somewhat skeptical of the supposed efficacy of union trusteeships even on the local level? As Judge Bechtle stated in rejecting the Government's proposal for such a trustee in the Philadelphia Roofers Case, "Experience has shown that court-imposed trusteeships have not worked as well as expected." In short, we submit that both as a matter of good law and good practice, the appointment of a trustee under RICO, if permitted at all, should be expressly limited in scope and powers so as not to contravene Federal labor law and policy.

Senator NUNN. Mr. Grady, could I interrupt you at this point for a clarification on that point?

Mr. GRADY. Yes, sir.

Senator NUNN. Judge Bechtle, he did reject the proposal for a trusteeship. But did he not impose court-monitoring and supervision over the local through what he called a decreeship, where a court-appointed officer monitored the union's activities? Did he not do that in that case?

Mr. GRADY. Yes, Mr. Chairman, I believe he did, sir.

Senator NUNN. Do you believe that is an appropriate remedy?

Mr. GRADY. I am not that familiar with the Roofers case. Our position is generally that the existing Federal statutes dealing with criminal conduct are sufficient. However, it is possible in a very extreme situation, where a Government-sponsored person, independent of the union, could function in that environment to ensure that the union's internal democratic procedures, as prescribed by their constitution, were given full effect and measure to. So in that situation, yes, sir, we could see a situation, but it would be a very extreme set of circumstances.

Senator NUNN. Thank you.

Mr. GRADY. Our second suggestion is that the law be made clear that such a trusteeship, in any form, not be imposed unless or until there has been a full and final evidentiary hearing and the Government has demonstrated, by clear and convincing evidence, that the interests of union members cannot be protected by any less intrusive means.

Here, again, the language of RICO is far too broad and standardless. On its face, RICO allows a Federal court, before holding any evidentiary hearing, to "enter such restraining orders or prohibitions, or take such other action . . . as it shall deem proper." 18 U.S.C., section 1964(b). Taking advantage of this open-ended invitation, the Government has repeatedly asked Federal judges, in advance of any trial or any evidentiary hearing, to immediately suspend all the elected officers of the target union entity and impose a temporary trustee in their place, pending a final trial on the merits which may not occur for months or even years to come. It should be noted that over 50 years ago Congress enacted the Norris-LaGuardia Act, which narrowly restricts a Federal court's jurisdiction to order an injunction in labor matters. RICO entirely ignores this well-established precept of American labor law.

The great danger of this approach is well illustrated by the Local 359 case in New York, colloquially known as the "Fulton Fish Market Case." There, the Government sought the immediate removal of all the officers of a local union on the ground that they were influenced by organized crime. Many very serious allegations were made. But as Judge Griesa found when the case finally went to trial, while the Government in its complaint "gave promise of a full-scale case against the union defendants . . . no such case was made out in Court." Indeed, Judge Griesa found that the accused officers were perfectly honorable and dutiful officials of their union and deserved to be continued in office, as they were.

The vast dichotomy between what the Government alleges in these cases and what it is actually able to prove is a function of its very heavy reliance in these cases on rank hearsay, often amounting to little more than gossip and rumor. This may make for a juicy press release—indeed, for years, the IBT has been subjected to endless trial by newspaper, where the rawest hearsay is taken as fact—but it ought not to provide a basis for any action as serious as ousting union officers and replacing them with a trustee before there has been the slightest hearing on the merits.

In our own case, the Government preliminarily sought the immediate ouster of every single one of our international officers and their immediate replacement by a trustee chiefly on the basis of the Government's summary of FBI reports, which were themselves often summaries of interviews with anonymous informants. The essence of the reports was usually that an informant had heard that a person alleged to be affiliated with organized crime had claimed to have this, that, or the other contact or influence with a Teamster official. Never had this information been subject to verification or cross-examination. It was hearsay piled upon hearsay. Indeed, as we later discovered, in many instances the FBI itself had transmitted this data with a cover sheet admonishing the user that the material was unsubstantiated and that the FBI could not vouch for its reliability.

To have ordered a trusteeship based on such insubstantial allegations would have been a travesty. Fortunately, in our case, Judge Edelstein rejected the Government's motion. Such requests for interim appointment of a trustee have also been rejected by the courts in most of the RICO cases involving union locals. But the good sense of most judges cannot be relied on to be never-failing. Moreover, the very threat of imposition of an interim trusteeship is a weapon the Government can use to coerce a settlement or capitulation from a union. Thus, as a matter of simple justice, RICO should be amended to make it clear that a court-appointed trusteeship can only be imposed after a full and fair evidentiary hearing on the merits.

Aside from onerous threats and unexamined hearsay, there is another weapon the Government has relied on in these cases to stack the odds in its favor, and that is an attack on the union's payment of attorneys' fees. This brings us to our third suggestion, which is that RICO be clarified so that no union is precluded from using its resources to hire legal counsel to defend itself or its officers. Before RICO, we would have thought this matter was reasonably free from doubt. A union could always hire counsel to defend itself from Government charges, and, just like employers, it could also advance the attorneys' fees of its officers when the accusations against them related to their performance of their official duties, unless the union itself believed they had acted improperly.

But RICO has been turned by the Government into a weapon for attacking the payment of such attorneys' fees, not only by unions but, as you may be aware, by other private institutions as well. In our own case, the Government—not content with calling for the ouster of every IBT international officer on the ground that their alleged failure to investigate local misconduct was itself a crime—went further and contended that any reimbursement by the IBT of the attorneys' fees needed by these officers to adequately defense themselves would itself constitute a still further crime. And in another case, involving Local 6A of the Laborers Union, the Government even went so far as to claim that the local's payment of its own attorneys' fees was an "act of racketeering."

The Government's theory in all these situations is that for a union or its officers to defend against the Government's efforts to clean up corruption is contrary to the best interests of union rank-and-file. This, of course, presupposes the truth of the charges: the very point in issue. If followed to its logical extreme, it would require a union and its officers to immediately capitulate any time the Government brought a RICO charge against them. And we can tell you that, in our own case, the attorneys for the individual union defendants were faced trying a 3- to 6-month trial without the slightest notion of whether or not they would be paid. Such a situation cannot help but impact the adequacy of their defense.

Fortunately, in our own case, the Government agreed, in connection with the settlement, not to challenge the union's payment of the officers' attorneys' fees. But there is nothing to indicate that this suggests a different legal position by the Government. Rather, legal fees have just become one more item to be bargained for in these cases. This is as unwise and unfair as it is unjust, and so we would strongly urge you to consider amending RICO to prevent this injustice.

In making these various suggestions, we want to emphasize that, so far as the IBT is concerned, these various controversies have been satisfactorily resolved by the virtue of our settlement with the Government, and our efforts hereafter will be focused on working with the Government and with the court to make the settlement work. But in the hope that the future may avoid the mistakes of the past, we believe these three suggestions, if implemented, would go far toward securing justice for all concerned.

Thank you, Mr. Chairman.

Senator NUNN. Thank you, Mr. Grady.

Mr. McCarthy, do you adopt this testimony as your own?

Mr. MCCARTHY. Yes, Mr. Chairman.

Senator NUNN. So this is a joint statement, and you agree with everything Mr. Grady has said?

Mr. MCCARTHY. I do, Mr. Chairman.

Senator NUNN. I just want to ask one question before we get to our next witnesses, and then I am going to defer to Senator Roth for any kind of opening statement. This question may have a couple of parts, but I think it is necessary to lay the foundation for our Justice Department witnesses.

Mr. Grady, you mentioned three different clarifications that you believe need to be made with regard to RICO, and I want to ask you, in your own settlement here, whether each one of these came into play: "Number one, RICO should be clarified to preclude the imposition of those remedies, such as the kind of trusteeship originally sought in this case, that contravene established doctrines of Federal labor law and union democracy."

As I understand it, there was not that kind of trusteeship imposed here, but it was sought. Is that right?

Mr. GRADY. That is correct. The Government, through the use of an affidavit only, sought and requested that the court enter a preliminary injunction, in effect imposing a trusteeship upon the entire international union. And a hearing was held, but it was on motion papers only, without any testimony whatsoever. And, fortunately, Judge David Edelstein of the Southern District of New York denied that motion.

Senator **Nunn**. The second clarification that you set forth in your testimony, "Congress should prohibit the imposition of any form of trusteeship over a union prior to a full evidentiary hearing on the merits of the underlying allegations."

Now, in this case, there was no such trusteeship imposed, was there?

Mr. **Grady**. Right, and there was no such evidentiary hearing. But I would——

Senator **Nunn**. It was solved.

Mr. **Grady**. On behalf of General President McCarthy, as his counsel, I filed a motion for an evidentiary hearing. But in view of the judge's denial of the motion for the trusteeship, it was mooted out.

I would point out and suggest that if you look at the Norris-LaGuardia Act, which is a law that narrows the jurisdiction of Federal judges, the so-called anti-injunction statute passed, I believe, in 1933 or 1935, that law requires hearings and requires specific findings to be made by the then-sitting judge and requires live testimony—for example, that the police are not able to handle the situation.

RICO just ignores that law, and that is a law that deals with Federal judges and their jurisdiction. I would think in an accommodation between the Norris-LaGuardia Act and RICO is definitely called for.

Senator **Nunn**. The third part is, "No union ought to be precluded from using its resources to hire legal counsel to defend both itself and its officers acting in their official capacities." Now, as I understand it, in your case, the Government did not preclude you from getting attorneys' fees.

Mr. **Grady**. Until we settled. All along, until the settlement—and, as you know, this case was filed June 28, 1988; the settlement was entered March 14, 1989. During that period we were advised by the Government that for the international union to reimburse any of the individual union defendants their attorneys' fees, they would be violating the Hobbs Act and committing a felony. And as a result, of course, we took the conservative approach and we did not do that.

So, for that period of time of approximately 9 months, the union defendants had to pay out of their own pocket their attorneys' fees, and most of them are persons without great means. Therefore, it worked an extreme hardship. We think it is not a level playing field when the Government has this remedy in its back pocket.

Senator **Nunn**. And getting to the real question here, you are saying, quoting you, "Moreover, the very threat of imposition of an interim trusteeship is a weapon the Government can use to coerce a settlement or capitulation from a union."

Now, based on the fact that all of these remedies were sought but none of them imposed that you outline here, are you, in effect, telling us that the threat of imposition of these three conditions was what led to a settlement?

Mr. **Grady**. I think they were all factors that were considered by the members of the General Executive Board when they voted upon it. Very definitely. I might add, Mr. Chairman——

Senator NUNN. Do you consider this settlement a capitulation by the union?

Mr. GRADY. I consider it a satisfactory resolution of a very difficult problem for the union. But I——

Senator NUNN. Does that mean you do not consider it a capitulation?

Mr. GRADY. No. It is definitely not a capitulation. After this settlement and since it has been entered, we are still free to run our affairs in the same manner we have in the past pursuant to our constitution. Now, we have some strange people, or we will have some strange people walking around the halls. And some of our members and officers may be getting letters concerning hearings concerning their conduct. But in terms of the day-to-day operation of the affairs of this great international union, there will be no change.

Senator NUNN. Mr. McCarthy, do you consider this settlement a fair and just settlement?

Mr. MCCARTHY. Yes. I would say yes.

Senator NUNN. Do you consider it in any way a capitulation by the union?

Mr. MCCARTHY. No.

Senator NUNN. At this point, unless there are other particular questions, I would like to go to Senator Roth for his opening statement.

Mr. Grady and Mr. McCarthy, after we hear from our Justice witnesses, we will call you back. We have a number of questions. We hope you will remain here.

Mr. GRADY. Thank you, Mr. Chairman.

Senator NUNN. Senator Roth?

OPENING STATEMENT OF SENATOR ROTH

Senator ROTH. Mr. Chairman, I will be brief and read only part of my opening statement.

I congratulate you for holding these hearings. Both of us have been involved in similar hearings on organized crime and its influence on a very few major unions. I guess the thing that concerns me as much as anything is that, despite the work that has been done by this Subcommittee down through the years, we find many of these same unions are still under the influence of organized crime.

So I think that it is important that we take a look at a new solution, the so-called RICO trusteeships. I think it is appropriate we look at them from the standpoint of whether or not they are fair. There is no question that we need some weapons that can turn the tide in this battle. Today, we are focusing on the International Brotherhood of Teamsters. The recent settlement of the Government's RICO suit against this country's largest union marks the latest, and hopefully last, step in the battle which has been waged over the course of four decades.

Three of the Teamsters last six presidents have been convicted of Federal crimes, and a fourth died while under indictment. Yet the union remained under the influence of organized crime, and it took the threat of this latest civil lawsuit to convince the Teamsters to negotiate a landmark settlement, which provides for the eventual direct election of union officials, an unprecedented step for this union.

One thing on which all parties agree is that trusteeships are extraordinary measures necessitated by extraordinary problems. Neither the courts nor the Government should be in the business of running a labor union. Then, again, neither should organized crime. A union should be the province of its members, and it is up to the Government to make sure that that province is not overrun by criminal forces.

RICO trusteeships may provide the leverage and the leadership to allow the rank-and-file members to reclaim what is rightfully theirs. It is incumbent upon us to examine this potent weapon to assure that it is deployed so as to maximize its efficiency, minimize its fallout, and ensure fairness.

Thank you, Mr. Chairman.

[Senator Roth's prepared statement follows:]

PREPARED STATEMENT OF SENATOR ROTH

The hearings we begin today represent a new chapter in this Subcommittee's longstanding commitment to investigate organized crime's influence on organized labor. Previous Subcommittee investigations and hearings have focused primarily on exposing various aspects of this problem. Today we look at a new solution—RICO trusteeships. Mr. Chairman, I want to commend you and your staff for exploring this important issue.

While the vast majority of labor unions operate free of organized crime's influence, there are unions which, to the detriment of their members, have fallen under the control of organized crime. In these few cases, eliminating this domination has proven to be difficult; traditional law enforcement devices have been largely ineffective. Time and again, successful prosecution of a corrupt union leader has been followed by the election of an equally corrupt successor. The names change but not to protect the innocent.

Rather, it is the innocent rank and file members who are exploited. They have been deprived of the very jobs which the union was established to protect, often replaced by cronies of organized crime members in lucrative, do-nothing positions. And union members have seen their own pension funds plundered to benefit organized crime.

Law enforcement should have the weapons needed to combat this problem. RICO trusteeships may be the weapon that can turn the tide in this battle. Law enforcement's equivalent of the neutron bomb, trusteeships offer the advantage of leaving a union structurally intact while eliminating corrupt officials. They are designed to give the rank and file members an opportunity to regain control of their union.

As we will discover during these hearings, trusteeships and similar arrangements have met with varying degrees of success. We need to make sure that the medicine is not as bad as the disease. If this remedy is to be more widely used, we must analyze the problems which have arisen so far and take the steps necessary to avoid them in the future. Most importantly, we must ensure that these arrangements always aim at enhancing the welfare of the rank and file members.

Today we will focus on the International Brotherhood of Teamsters. The recent settlement of the government's RICO suit against this country's largest union marks the latest and hopefully last step in a battle which has been waged over the course of four decades. Three of the Teamsters' last six presidents have been convicted of federal crimes and a fourth died while under indictment. Yet the union remained under the influence of organized crime. It took the threat of this latest civil lawsuit to convince the Teamsters to negotiate a landmark settlement agreement which provides for the eventual direct election of union officials, an unprecedented step for that union.

The one thing on which all parties agree is that trusteeships are extraordinary measures necessitated by extraordinary problems. Neither the courts nor the government should be in the business of running a labor union. But, then again, neither should organized crime. A union should be the province of its members. It is up to the government to make sure that the province is not overrun by criminal forces.

RICO trusteeships may provide the leverage and the leadership to allow the rank and file members to reclaim what is rightfully theirs. It is incumbent upon us to examine this potent weapon to ensure that it is deployed so as to maximize its efficiency and minimize its fallout.

Senator NUNN. Thank you very much, Senator Roth. I have already expressed my appreciation to you and the minority staff for your splendid cooperation in preparation for these hearings.

Our next witness this morning will be Mr. Benito Romano. Mr. Romano is United States Attorney for the Southern District of New York. Mr. Romano was appointed U.S. Attorney for the Southern District of New York in February of this year. He has served in various positions, including Associate U.S. Attorney in the U.S. Attorney's Office for the Southern District of New York since 1980.

Mr. Romano, we are delighted to have you with us this morning. Do you have associates you would like to come up? If so, we would have them introduced. We would be glad to have them join you this morning.

I would ask any of you who plan to testify or answer questions, if you will, please stand and let me give you the oath. We swear in all the witnesses before our Committee. And if either of the associates are going to answer questions, we would be delighted to have them be witnesses and give them the oath.

What is your pleasure on that?

Mr. ROMANO. Senator, I will be answering the questions.

Senator NUNN. Okay. Do you swear the testimony you are to give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROMANO. I do.

Senator NUNN. Thank you. Mr. Romano, we appreciate you being here this morning. We know that you have had a very large role in this settlement in this case. Perhaps you could start by telling us a little bit about the role you played, and introduce your associates, and then we will be pleased to have any testimony you have about the settlement or any testimony you have in response to what we have heard here this morning.

TESTIMONY OF BENITO ROMANO, U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK, ACCOMPANIED BY AARON R. MARCU AND RANDY MASTRO

Mr. ROMANO. Thank you, Mr. Chairman.

I, as United States Attorney, supervised the negotiations of the settlement agreement over the last month preceding the entry of the order. On my left is Associate United States Attorney Aaron Marcu, and on my right is Randy Mastro. Mr. Marcu and Mr. Mastro together negotiated the last aspects of the settlement in consultation with me. Mr. Mastro was the Assistant United States Attorney in charge of this case, and if this case had gone to trial, he would have represented the Government before Judge Edelstein.

Senator NUNN. We are pleased to have all of you here this morning. Thank you for coming.

Mr. ROMANO. I appreciate the opportunity to address the Committee. Before making any remarks regarding the recent settlement of the Government's civil RICO case against the Teamsters, I would like to comment very briefly on the accuracy of some of the assertions made in the joint statement made by Mr. McCarthy and Mr. Grady.

Mr. McCarthy claims at the outset that, in bringing the recently settled civil RICO suit, the Department of Justice sought to—I think he used the term "disenfranchise" members of the union by displacing democratically elected officers. It is only if we were able to compare this process to the most repressive totalitarian regime imaginable could the system for electing officers by the Teamsters be considered democratic. Violence and the threats of violence repeatedly carried out and officially sanctioned and endorsed by the union's leadership has understandably discouraged viable, broadly based opposition candidates from emerging from the ranks of the union.

The system itself has also favored the status quo and played right into the hands of organized crime. The alleged election of convention delegates is really no election at all. Until the settlement of the Government's civil RICO case, an exceedingly small percentage of convention delegates were actually elected. The overwhelming majority of convention delegates became delegates automatically by virtue of their holding office in a Teamsters local or a Teamsters affiliate.

Sixteen of the 18 current international vice presidents began their careers as trustees of the union by appointment. Every president since Jimmy Hoffa began holding senior office by appointment. To refer to the existing system as democratic or to the current Teamsters officers as democratically elected is a sick joke.

Secondly, Mr. McCarthy and Mr. Grady contend that the allegations of corruption in the Government's civil RICO complaint were false or grossly exaggerated or based on flimsy hearsay evidence and that the Teamsters only had a few bad apples—that argument is ludicrous. Roy Williams, the former Teamsters president who, in 1981, I understand, appeared before this Committee and asserted the Fifth Amendment, admitted under oath during pretrial proceedings that he was a puppet of the LCN. As president of the Teamsters, he did not impose a trusteeship under the union's constitution on Local 560 because, as he put it, he was afraid he would get his head blown off.

Jackie Presser, another former president of the Teamsters, admitted that the mob put him in office.

Angelo Lonardo, the former acting boss of the Cleveland organized crime family, confirmed, again in testimony under oath, that he was personally instrumental in getting Williams and Presser installed as president of the Teamsters. All of this testimony, which is now easy to attack, was corroborated by tape recordings of organized crime figures as they plotted to rig the election of Williams and Presser.

Any thought that the Government has exaggerated the extent of the problem of corruption within the Teamsters is immediately dispelled upon reading Judge Ackerman's opinion in the 560 case.

> John L. Lewis, former president of the Congress of International Organizations and the United Mine Workers, once said that, "Labor, like Israel, has many sorrows."
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> A careful review of the evidence in this unprecedented case reveals the verity of that observation. It is not a pretty story. Beneath the relatively sterile language of a

> dry legal opinion is a harrowing tale of how evil men, sponsored by and part of organized criminal elements, infiltrated and ultimately captured Local 560 of the International Brotherhood of Teamsters.

Senator NUNN. Is this the judge's opinion?

Mr. ROMANO. Yes.

Senator NUNN. Okay.

Mr. ROMANO. The opinion continues:

> One of the largest local unions in the largest union in this country, this group of gangsters, aided and abetted by their relatives and sycophants, engaged in a multifaceted orgy of criminal activity. For those that enthusiastically followed these arrogant mobsters in their morally debased activity, there were material rewards. For those who accepted the side benefits of this perverted interpretation of business unionism, there was presumably the rationalization of "I've got mine. Why shouldn't he get his?" For those who attempted to fight, the message was clear: Murder and other forms of intimidation would be utilized to ensure silence. To get along, one had to go along, or else.

Third, the joint statement proposes several amendments to the RICO statute, so-called reforms, that have very little to do with anything with the Government's civil RICO case against the Teamsters, whose settlement Mr. McCarthy expressly endorsed. The statement argues that the RICO statute ought to be changed so that the trusteeships are flatly prohibited as a permissible form of equitable relief, or that trusteeships should be imposed only after a full evidentiary hearing, and that the union should be allowed to use its funds to pay for the attorneys' fees of union members sued under RICO.

Now, it is my view that the trusteeships ought to be available as an option when a district judge is presented with a sufficient showing that a union is incapable of governing itself free of corruption or free of the pernicious influence of organized criminal elements.

The issue of whether or under what circumstances a trusteeship may be imposed is, for the Teamsters, largely irrelevant in this case because the civil RICO suit has been settled. But contrary to the statement you just heard, the Government sought the imposition of a trustee in the Teamsters civil RICO suit only after a full evidentiary hearing, and in accordance with the law of our circuit, we had to object to union funds being used to pay members' legal fees.

We also settled the Teamsters case, and we are satisfied that the appointment of the three court officers——

Senator NUNN. Could you clarify that, "law of the circuit"? Would you tell us what the law of the circuit is regarding attorneys' fees?

Mr. ROMANO. The law in the 2d Circuit prohibits the payment of attorneys' fees if there has been a finding that the member has engaged in misconduct. We would not have been able to recover those fees until we had a judgment or such a finding. But in advance of that, we had to take the position that those fees may be recoverable, because under our law, in our circuit—and it may vary in other circuits—those fees would not have been permissible to us union funds to pay those fees, because the allegations in our complaint were that the union members, these officers had engaged in misconduct. And the entire rationale of our lawsuit was that the confidence one could ordinarily have in the union's normal democratic processes were not well placed in this case.

Senator NUNN. Does that apply just to labor unions? Or if you, for instance, were pursuing a RICO remedy for a business corporation on the basis of corruption or misconduct of its members, would the attorneys' fee provision also apply in that case?

Mr. ROMANO. It is my understanding that it applies to labor unions. The case specifically arose in a labor context.

Senator NUNN. It would not have a broader application?

Mr. ROMANO. It may require an extension of existing law, but as it currently stands, the case, at least we feel, can only be relied on in the context of a union.

Senator NUNN. Well, I will get into further questions on that later, but my essential question is: Is it equitable and fair to apply it only to unions when it does not apply to others? What would be the difference in misconduct by a corporation that you were putting under RICO?

For instance, the Fulton Fish Market case, would it have applied in that case where attorneys' fees would have been denied, had you been alleging misconduct, which I guess they were?

Mr. ROMANO. Yes. Initially, the Fulton Fish Market case alleged misconduct on the part of both employers and unions. And I am not suggesting that we would not take the position in the context of the right case, even if it involved a corporation, to seek to prevent the corporation from using corporate assets to pay the attorneys' fees of an employee of the corporation.

Senator NUNN. Does it apply in the Wall Street cases? Are you familiar with those?

Mr. ROMANO. I am familiar with them, sir. We have not sought that sort—those have not arisen in the context of a civil RICO. Those are currently in the context of a criminal RICO, and we have not sought it in those cases.

Senator NUNN. So there is not an analogy there?

Mr. ROMANO. No. We have not sought to prevent the payment of fees. We have satisfied ourselves in those cases that the forfeiture issues will not involve the question that is before the United States Supreme Court right now, whether we can, consistent with the Constitution, interfere with the payment of attorneys' fees.

Senator NUNN. As a lawyer, it does seem to me that a lawyer who fears that he is not going to get paid because of the Government position, denying attorneys' fees, has extraordinary incentive to settle a case if, by settlement, the Government agrees that he can get paid.

Mr. ROMANO. Well, the whole basis, the fact of the matter is that the settlement pretermits the possibility of a judgment at the end of a process that the union member engaged in misconduct, which is the very basis for withholding the fees. But I agree with the Chairman that it is a sensitive issue and one which we fortunately did not have to face in this case.

Senator NUNN. I would like to come back to that. I do not want to interrupt your whole testimony on that, but it does seem unfair to me that that sort of—I do not know whether there are other analogies or not. I would ask, after we get through this this morning, if we find other areas where attorneys' fees are denied in similar circumstances, other parts of the law. I know there are some situations where attorneys' fees are denied, but I would like to get an analogy here, because there is a very strong incentive for a lawyer to settle if his fee, whether it is going to be paid or not, depends on whether it is settled or whether it goes to an adversary proceeding.

Mr. ROMANO. One of the things that the Committee ought to keep in mind is that we are still in the infancy of the use of civil RICO in the context of unions and legitimate enterprises. And it may well be that we will not be able to answer all those questions, and it may be that, from the standpoint of the Department of Justice, it is something we ought to address in a more formal way, perhaps at a subsequent time.

Senator NUNN. Is this a court interpretation in your circuit of the existing law, or the law itself?

Mr. ROMANO. It is a court interpretation. The name of the case, if the Chairman is interested, is——

Senator NUNN. Malone versus English?

Mr. ROMANO. No. It is *Morrissey* v. *Curran,* at 650 F. 2nd, 1267.

Senator NUNN. Okay. Well, this is a point we can come back to. I do not want to interrupt you any further.

Mr. ROMANO. As I was saying, we are satisfied having entered into the settlement that the appointment of the three court officers under the agreement, that in that manner the Government has accomplished most of the essential objectives that a trustee would have provided.

I would like now to turn to a brief discussion of the settlement of the Government's civil RICO suit against the Teamsters and the circumstances that gave rise to the suit and the settlement.

Civil RICO, as the Chairman so aptly observed earlier, has become a powerful weapon in the Government's efforts against organized crime and, in particular, organized crime's illicit influence over certain businesses and labor unions. Our lawsuit against the Teamsters is a perfect example.

For more than 30 years, the Government has been prosecuting individual criminal cases in an effort to root out organized crime's pervasive corruption and domination of the Teamsters union. Indeed, during that period, the Government prosecuted four of the five Teamsters presidents and sent literally hundreds of persons to prison for committing crimes involving Teamsters-related corruption, including racketeering, extortion, bribery, and many other crimes. Despite those many successful criminal prosecutions, however, organized crime has remained a cancer within that union.

Civil RICO may finally prove to be the cure for that cancer. In a historic settlement reached last month in the Government's civil RICO suit against the union and its governing board, the Teamsters agreed to a wholesale reform of their electoral process. From now on, all union officers will be elected in direct, rank-and-file, secret ballot elections. The first two international elections, in 1991 and 1996, will be supervised by a court-appointed elections officer. In addition, under our settlement, the union's operations will be overseen by a court-appointed administrator for the next 3½ years. The administrator will have the power to impose discipline on corrupt Teamsters, to impose trusteeships, when necessary, on corrupted locals, and to veto improper union expenditures, contracts or appointments. The administration will be aided in that task by a court-appointed investigations officer, who will function as a prosecutor to investigate and prosecute disciplinary charges and to seek to place local unions under trusteeship. Finally, even after the administrator leaves office, the union will have permanent outside oversight through the appointment, after the union's 1991 elections, of an independent review board to investigate and punish corruption, misconduct, and associations with organized crime within the union.

I am convinced that this settlement achieves the two principal objectives of the Government's lawsuit; namely, to reform and make democratic the Teamsters' electoral process and to install independent disciplinary officers to eliminate corruption within and to eradicate the influence of organized crime over the union. Significantly, the Teamsters' current officers have consented to these reforms, and that endorsement, we hope, will facilitate the implementation and effectiveness of these reforms.

These reforms of the Teamsters' electoral and disciplinary procedures would not have occurred without civil RICO. The criminal laws have permitted us to prosecute individual wrongdoers, but criminal convictions alone have not solved the problem of entrenched organized crime control of corrupted industries and unions. It is the civil RICO statute that has now given us the opportunity to reform the industries and unions corrupted by those wrongdoers and their criminal confederates.

Prior to the filing of the Teamsters case, my office had successfully used the civil RICO statute to have a receiver appointed for a prominent restaurant in the Little Italy section of Manhattan, to have a trustee appointed for the Cement and Concrete Workers Union in New York City, and to have an administrator appointed for the Fulton Fish Market in lower Manhattan. Each of those cases followed successful criminal prosecutions involving La Cosa Nostra or "Mafia" corruption of the businesses and unions sued. Those cases established important legal precedents, including the Government's right to broad equitable relief, such as trusteeships and receiverships, under RICO's civil remedies provisions.

In June 1988, the Government filed its civil RICO suit against the Teamsters Union, the Teamsters' 18-member General Executive Board, the ruling Commission of La Cosa Nostra and more than 2 dozen persons identified in the complaint as La Cosa Nostra members and associates. The Government's complaint alleged that the Teamsters' top officers have allowed the union to be corrupted by La Cosa Nostra and that union members have been deprived of their rights through a pattern of racketeering that included murders, shootings, bombings, beatings, bribery, extortion, theft and misuse of union funds. In its complaint, the Government asked the court to bar La Cosa Nostra members and associates from any contact with the Teamsters, to remove from office any Teamsters officers found at trial to have committed violations of the RICO statute, and to appoint a trustee whose primary responsibility would be to ensure free and fair elections of new union officers. As a matter of preliminary relief, the Government also sought the appointment of a court officer to discipline Teamsters corruption.

Senator NUNN. May I ask one question on this point? You say removal "at trial." I think that is an important point. You are saying you were not seeking removal of any union officials prior to trial.

Mr. **Romano**. That is correct.

Senator **Nunn**. By trial, you mean criminal?

Mr. **Romano**. Trial on the merits. A civil trial——

Senator **Nunn**. A civil trial on the merits.

Mr. **Romano**. A civil trial where witnesses would be subject to cross-examination and discovery would be freely available to both sides.

Senator **Nunn**. You did not ask for a preliminary removal?

Mr. **Romano**. We did not.

At the time of the complaint, my predecessor as U.S. Attorney, Rudolph Giuliani, took great pains to explain that this case was "not a takeover of a union" by the Government. He said, "The Government's complaint is a precise, carefully drawn legal effort to end La Cosa Nostra's corruption of this union and to implement procedures that will allow the many honest members of the Teamsters to run their own affairs in a democratic manner and participate in General Executive Board elections that are free and fair."

While this was the first time that the Government ever attempted to use RICO's civil remedies against an international union, the Teamsters presented an extraordinary case. The President's Commission on Organized Crime had just described the Teamsters as the union "most controlled" by organized crime. In its 1986 report, the President's Commission found that "[t]he leaders of the nation's largest union, the International Brotherhood of Teamsters (IBT), have been firmly under the influence of organized crime since the 1950's" and that "[f]or decades, organized crime has exercised substantial influence over the International Union, primarily through the office of the President." The Commission concluded that:

> At both the international and local levels, the IBT obviously continues to suffer from the relationship with organized crime. Indeed, so pervasive has this relationship become that no single remedy is likely to restore even a measure of true union democracy and independent leadership to the IBT. Sustained commitment of governmental resources to dislodge organized crime from the IBT through a combination of criminal prosecutions, civil actions, and administrative proceedings is the only approach that offers even a modest hope of success in the long run . . . . [S]ystematic use of trusteeships by the courts may be necessary to prevent organized crime from continuing to do business as usual in the IBT.

Former IBT President Roy Williams, Cleveland La Cosa Nostra Acting Boss Angelo Lonardo, and others have given vivid and shocking testimony about La Cosa Nostra corruption of the Teamsters and La Cosa Nostra's role in securing the elections of Williams and Jackie Presser as the Teamsters' last two presidents. Conversations among La Cosa Nostra figures—recorded pursuant to court-ordered wiretaps—powerfully demonstrated the accuracy of that testimony. In the face of this overwhelming evidence, the Government had an obligation to act to protect union members and the public.

The primary objectives of this lawsuit were twofold: First, to restore union democracy; and, second, to combat La Cosa Nostra corruption and domination of this union. In just 9 months, this litigation has produced a settlement which we believe will achieve those objectives and which constitutes a major milestone in the fight against organized crime. The terms of the settlement include the following:

First, Court-Appointed Officers. A court-appointed administrator, investigations officer, and elections officer will oversee certain IBT operations. The investigations officer will investigate and prosecute allegations of union corruption, criminal conduct, and association with organized crime. He or she will have the power to subpoena witnesses and documents, to file charges or petition for the imposition of trusteeships, and to present evidence at disciplinary or trusteeship hearings. The administrator will have the authority to discipline corrupt IBT officials and to impose trusteeships on corrupt IBT locals. The administration will also decide disciplinary or trusteeship cases on a "just cause" standard and resolve election disputes. The administrator can veto improper union expenditures, appointments or contracts, other than collective bargaining agreements. All of these powers will last until late 1992. Even after that date, however, the administrator will remain empowered to resolve to completion any disciplinary charges filed before that date and any disciplinary matters arising from the 1991 election. And, finally, the elections officer will supervise and certify the results of the IBT's 1991 elections and have the right to supervise the IBT's 1996 elections.

Second, New Election Procedures. Under the Teamsters's old election system, Teamsters officers all were elected in public, roll-call, voice votes at International conventions by delegates, the vast majority of whom automatically went to the conventions by virtue of being local union officers. It was a self-perpetuating system perfectly suited to permit cronyism, bullying and coercion as a means of electing the union's top officers. Now, under the system established by our settlement, the IBT's General President, General Secretary-Treasurer, and 16 Vice Presidents, who collectively comprise the union's ruling General Executive Board, will for the first time be elected by direct, rank-and-file, secret balloting. The General President, General Secretary-Treasurer and 5 Vice Presidents will be elected union-wide, and 11 of the Vice Presidents will be elected regionally. To get on the ballot, a candidate will have to receive 5 percent of the votes of the delegates from the applicable geographic area at an IBT convention. In addition, all delegates to the convention will be elected by direct, rank-and-file, secret balloting, and the voting at the convention will be by secret ballot.

Moreover, after the 1991 elections, the Teamsters must follow these same procedures wherever there is a vacancy in the office of General President, the union's most powerful seat. Until now, the union's General Executive Board selected the new president when that office became vacant between conventions. Indeed, the last four Teamsters presidents, and almost every vice president over the past 20 years, first attained office by appointment, not election. Their appointments made subsequent election a certainty since they faced little or no opposition at conventions. Now, that system will change. In addition, the Teamsters have consented to the Department of Labor supervising all future Teamsters elections.

Third, an Independent Review Board. By the end of 1991, the Teamsters must establish an independent review board, with power to investigate and discipline IBT corruption, as a permanent fixture of the union. The board, which will have three members—one appointed by the Attorney General of the United States, one by the union, and the third by agreement of the other two appointees—will investigate and discipline IBT corruption and impose trusteeships on corrupt IBT locals after first affording the appropriate IBT entity the opportunity to take the necessary action.

Fourth, the Status of the Individual Defendants. Since the filing of this suit, the Government has obtained court orders against 5 of the original 18 union officer defendants—Robert Holmes, John Cleveland, Harold Friedman, Maurice Schurr, and Donald Peters—requiring them to leave union office, and one other defendant, former IBT President Jackie Presser, has died. The other union officer defendants are now subject to removal by the administrator under a "just cause" standard—a lesser standard than would have been required for their removal had this case gone to trial in Federal court. In addition, those officers are barred from engaging in racketeering activity, knowingly associating with organized crime figures, or interfering with the work of the court-appointed officers. Of the more than 2 dozen La Cosa Nostra bosses and members named as defendants in this case, the Government has already obtained judgments against 22 of them, as well as against the Commission of La Cosa Nostra, barring them permanently from union activity, and the Government will go to trial in September against the remaining three La Cosa Nostra defendants.

Senator NUNN. May I ask a question here? The "just cause" standard of removal by an administrator, is that an administrative type hearing?

Mr. ROMANO. It is an administrative type hearing, not unlike one might encounter in the context of labor disputes.

Senator NUNN. Is that subject to appeal?

Mr. ROMANO. There is always the right to appeal to the District Court judge. Judge Edelstein has retained jurisdiction over the case. While the administrator is empowered to develop procedures that will be applied in these hearings, we expect that the administrator will promulgate rules that are to be followed. From the administrator, there is a right of appeal, as I said, to the District Court, and the standard that applies to that is the ordinary standard you encounter in appeals from administrative agencies, arbitrary and capricious standard.

Senator NUNN. So there is a "just cause" standard at the administrator level.

Mr. ROMANO. That is correct.

Senator NUNN. What would the standard be? You say a lesser standard would have been required for their removal had this gone to trial in Federal court. What would have been the standard?

Mr. ROMANO. A higher standard would have been required. From our point of view, it would have been a higher standard.

Senator NUNN. Right. A lesser standard than—I left out the word "than"—would have been required. Right. A higher standard would have been imposed in a court trial.

Mr. ROMANO. In every civil suit, including one brought under the civil RICO statute, we would have been required to prove the acts of racketeering by a preponderance, which we construe as a higher standard than "just cause."

Senator ROTH. Could I ask a question, Mr. Chairman?

Senator NUNN. Certainly.

Senator ROTH. Under the settlement agreement, if someone is nominated who the investigator thinks is tainted by organized crime, what power does he or the administrator have to prevent such an individual from running for office, if any?

Mr. ROMANO. The only power the investigations officer would have initially is to bring disciplinary proceedings for infractions of union rules or corruption. They could not prevent somebody otherwise from obtaining a nomination or running for office. The only way the administrator or the investigations officer would get involved is if that member was guilty of one of the infractions listed in the agreement, or violated some other union rule under the constitution; namely——

Senator ROTH. But once he is elected, Does the administrator have the authority to remove him for cause?

Mr. ROMANO. Even before he is elected.

Senator ROTH. He would have the authority even before the election?

Mr. ROMANO. Yes.

This settlement is a major step forward in the Government's continuing effort to ensure that all levels of the Teamsters union are free of organized crime control and influence. As with any settlement, the final result is not precisely what the Government sought in its complaint. It provides the Government, however, in every essential respect, with the necessary tools to accomplish exactly what we sought to accomplish when we filed this lawsuit: sweeping democratic reform of the Teamsters 'electoral process and the appointment of independent officers to ensure the elimination of La Cosa Nostra influence over this union and to remedy corruption within the union. Several top Teamsters officers whose removal from office the Government sought at the outset of the case have, in fact, been removed as a result of this litigation, and those officers who remain are all subject to removal by the court-appointed administrator under a lesser burden of proof and more relaxed evidentiary standards than those applicable in Federal court proceedings.

We have reason to be cautiously optimistic that as a result of the settlement the Teamsters union will be permanently rid of the pernicious influence of organized crime. The Government secured these fundamental reforms of the Teamsters union with the consent of the union's current leadership. Because these reforms are to that extent the product of a collaborative effort, they will have a much greater chance of succeeding than judicially imposed relief after a bitter and hotly contested trial. Moreover, by resolving this lawsuit without a trial, we are able to put these democratic reforms in place immediately. A lengthy trial, followed by the usual appellate process, would have delayed for years the implementation of any such relief.

Also, the independent disciplinary officer to be appointed for the Teamsters will be using the very powers that the Teamsters top officers have had under their own constitution but have simply failed to exercise. Since 1970, the Government has brought more than 200 cases involving Teamsters-related corruption, and those cases have resulted in more than 340 criminal convictions. Yet the Teamsters leadership did literally nothing to remedy or even investigate that corruption, despite their obligation to do so under Federal labor laws and their own constitution. Now, these court-appointed officers will be using the same constitution to protect the union membership from corruption.

Finally, this agreement gives the union members a most precious right previously denied them—the right to democratic participation in the election of their officers. For the first time ever, the rank-and-file will elect officers by direct secret ballot. Thus, union members will have the chance to clean their own house.

In approving this settlement, United States District Judge David Edelstein noted that the Teamsters union "has had a long and sordid career of corruption and involvement with criminal elements and corrupt practices." He added that "the supervisory provisions set forth in the decree, if effectively exercised, afford some hope that the union will become part of the mainstream of honest unionism. If this happens, it will be an enormous victory for the union and its membership, and the nation as well." Judge Edelstein praised the "democratic elections" provisions of the settlement as "an enormous stride in the history of the IBT." He added, "Its vast power for good and for reform cannot be ignored."

Judge Edelstein concluded:

> The agreement ratified today should be viewed in the future in the context of the spirit in which it was executed. It is, after all, the members' union. They will have the right directly to elect their leaders, free from any influence except their own good conscience. To assist the union leadership in identifying corruption, independent officers and later an independent review board will be established. In one sentence, this agreement is designed to ensure that the International Brotherhood of Teamsters and its 660 locals belong always to the 1.7 million men and women that comprise its heart and soul.

We share those sentiments.

In a very real sense, the Teamsters case has concluded one critical phase and begun another equally critical and, indeed, a historic phase. Within the next month, the court will appoint an investigations officer to prosecute corruption cases within the Teamsters and an administrator to decide those cases. The investigations officer and the administrator's mission to remove La Cosa Nostra-influenced Teamsters officials and to impose, where necessary, trusteeships on corrupt Teamsters entities will be greatly assisted by the Justice Department and the FBI's assignment of manpower and sharing of investigative information with these court-appointed officers. With continued support and vigilance, the reforms required by the settlement of the Teamsters case, and the 30 years of governmental effort that preceded it, may well produce a new union—a union which is democratic, truly representative of its members, and untainted by the influence and domination of La Cosa Nostra. I intend to make this work one of the highest priorities of my office, and FBI Director Sessions personally has assured me that the FBI will devote its full resources to support the investigations officer and administrator in their effort to rid the Teamsters of corrupt influences.

Senator NUNN. Thank you very much, Mr. Romano.

At this stage, in accordance with previously announced procedure, what we will do is, Mr. Romano, if you and your associates will have a seat, we will have Mr. Grady and Mr. McCarthy come back up and complete their questions, at which time we will recall you.

Mr. McCarthy and Mr. Grady, would you like to come up?

Mr. GRADY. Can we have just a 2-minute recess?

Senator NUNN. We will make it a 5-minute break for everybody and be back here at 10 after.

Mr. GRADY. Thank you.

[Recess.]

Senator NUNN. The Subcommittee will come back to order. We will now get to the questions for Mr. McCarthy and Mr. Grady.

We have heard described this morning, Mr. McCarthy, the consent judgment, and it does provide for the election of the International Brotherhood of Teamsters' President, General Secretary, and Vice President by direct rank-and-file voting in secret ballot. What is your view on that provision? Do you think that is a step forward for the Teamsters' Union?

Mr. MCCARTHY. It is an agreement that we made with the Government, and we will do everything we can to support it and get the delegates to adopt it.

Senator NUNN. So you are pledged to support that, and you plan to support it?

Mr. MCCARTHY. Yes. As a matter of fact, we have—this is our monthly magazine. I can give you copies if you are interested in it. On it, it says "the IBT, Department of Justice, agreed to settlement of civil RICO case. The goals of a clean and democratic union are consistent with the goals of our leadership. William J. McCarthy, General President." And then throughout it, we have questions and answers and so forth, explaining the best way we know how, to our membership. It goes to the entire membership.

Senator NUNN. What has been the reaction of your membership to that direct election provision? What have you heard? What kind of feedback are you getting as President?

Mr. MCCARTHY. I have not gotten that much, other than they are glad it is settled. Of course, some say you are crazy. They say, "Why did you settle? You should have went all the way." Again, others, well, if this is what you think is best, fine. Something in that line. As far as at the Convention, I have not heard anything.

Senator NUNN. So, it is a mixed——

Mr. MCCARTHY. Because they are not delegates.

Senator NUNN. Right. Right. You have not heard a whole lot from the rank-and-file? The members—people who have never been to the Convention before, people who have never voted except in local elections before, you have not heard much from them?

Mr. MCCARTHY. I hear from them in regards only that they are glad it is settled, and we get down to other business.

See, I talk to them every—I meet with my membership every Monday--Friday or a Monday, but I rule on Monday night. Our office in Boston is open almost every Monday. It is open until 11:00 or 12:00 o'clock. We call a grievance night, and this is where our people, the members, can come in where they cannot get a business agent during the day, whatever, and talk to me as well as any problems there may be. This is where I get it.

Senator NUNN. Are those mainly local members, or would they be from anywhere?

Mr. MCCARTHY. Oh, no. They are local members. Members from Local 25.

Senator NUNN. Right. Turning—Mr. Grady, you may want to address this question. As I read the consent agreement, it sets forth a number of amendments to the IBT Constitution pertaining to, among other things, the election process.

My first question is, we are seeing here an amendment to a labor union Constitution that is basically agreed to, not by the delegates, not by the membership, but by the leadership of the union and the Government. How do you view this as a legal matter? Mr. Grady?

Mr. GRADY. The Judge and the Government—We believe that the extensive authority that a Court has under Title 18, 1964 of RICO, permits a Federal Judge in the exercise, particularly under a Consent Order, the exercise of his jurisdiction to make such actions concerning—excuse me.

As he—due provision—concern—he has to make due provision for the rights of innocent persons, but he has broad authority in terms of remedy, and the comparable issue that I had experience to as counsel to the Boston Teachers' Union in the Boston school desegregation case. In that case, W. Arthur Garrity, the Federal District Judge in Boston, was able to, in effect, amend the collective bargaining agreement and delete offending provisions as it related to affirmative action and seniority. That was upheld by the Supreme Court, so using that analogy, it does appear that this vehicle is lawful in terms of amending the Constitution.

Senator NUNN. Is this viewed legally, and I will also ask Mr. Romano this when he returns—is this viewed from a legal point of view, really an amendment to the Constitution, or a court-imposed consent decree notwithstanding the Constitution?

Mr. GRADY. The former. We amend—in our view, there are four amendments to the Constitution presently in place by virtue of the Order entered on March 14th. The election amendments will be presented forthwith at the opening of the Convention for their confirmation, and then there are two other amendments that will be acted upon at the Convention, but do not take effect until the conclusion or the end of the Convention.

Senator NUNN. Now, do you believe that the Constitution can be amended by the membership or by the delegates at the Convention to contravene what has now taken place by a court amendment to the Constitution?

Mr. GRADY. Well, I believe they will have the opportunity to do that. They will be presented the opportunity to vote.

I would point out that the voting on these proposed amendments, or the confirmation of these amendments—perhaps the more accurate way to state it—will be by roll-call vote. Now obviously, we do not even know who the delegates are, but certainly one of the options is not to approve or confirm these amendments. So it is a free and open election as I am sure it will be, then that obviously is one of the options available.

Senator NUNN. So the membership can override this, if they want to, by rejecting these amendments?

Mr. GRADY. The membership will have that opportunity. Theoretically, yes, you are right, sir.

Senator NUNN. But in the meantime, in the interim before they do that, in your interpretation of it, this is the Constitution of the International Brotherhood of Teamsters?

Mr. GRADY. Yes, sir.

Senator NUNN. Now, page 5 of the agreement states, "The IBT Constitution shall be deemed and hereby amended to incorporate and conform with all the terms set forth in this Order." That conforms to what you just said.

Mr. GRADY. Yes, sir.

Senator NUNN. And then on page 18 of the agreement, it says, "nothing herein shall be construed as authorizing the parties or the court appointed officers to modify change or amend the terms of this Order."

Now that second provision indicates that this is permanent in nature as far as the parties are concerned. Could you tell me—well, at least that is the way I interpret it. These are permanent changes and the parties cannot change this. Tell me who you believe the parties are to this suit.

Mr. GRADY. Well, if I may go back. Well, let me answer the question. The parties are obviously the government and the International Union and the General Executive Board.

Senator NUNN. Well, then that says that the parties cannot change, modify or amend the terms of this Order.

Mr. GRADY. That is right. We cannot, unilaterally, decide that there should be an amendment to any one of these paragraphs. We have to go back to the court.

This is the document we are going to be living with and working with and no other.

Senator NUNN. How can, then, the Convention in 1991 or whenever it is going to occur, how can they—the Convention amend this if it is precluded by this provision?

Mr. GRADY. I recognize where the Senator is coming from that it does appear to be some inconsistency here. There are two expressed reservations or provisions that provide for the voting by the delegates to confirm the various election, particularly, provisions, which seems to be contrary to the statement that it has already done.

However, it was the Government's position that we concur to that, that this was a necessary element of a settlement. That is, for the delegates to, in effect, bring these provisions into their own constitution, and that is why these provisions are there.

But I have to readily admit the thrust of the Chairman's questions—is that it does present certainly the alternative of not approving or confirming these provisions. Yes, sir.

Senator NUNN. So you believe the delegates, the Convention of 1991, have the ability if they are going to vote for the amendments that they also have the ability to vote against them?

Mr. GRADY. I agree with that, yes.

Senator NUNN. And then what happens if they vote "no"?

Mr. **Grady**. Well, the Government has anticipated that, and there is a provision in here that provides that they can go back into court.

Senator **Nunn**. At that stage, though, the delegates at that Conventions will have the right to reject these amendments, and then it would be up to the Government, as you interpret it, to come back in a reassert them in some other form?

Mr. **Grady**. Yes. I would point out, Mr. Chairman, that as you know in Title IV of Landrum-Griffin, we must elect our international officers every 5 years. So in the unlikely event that the delegates reject or fail to confirm these amendments, the Constitution Committee would have an alternative set of methods, because at that point—let us say the vote was on Monday—we do not have a system of how to elect our general officers.

I suspect the Constitution Committee would present one or more alternatives, and eventually they would be adopted, and we would proceed to an election of a general executive board under the alternative method.

I suspect further that the Government would see what we came up with. It is possible that they may agree that what we came up with as an alternative is superior to what is in the settlement, or they may think it is not. We do not know.

Senator **Nunn**. Mr. McCarthy, having approved this agreement in your capacity as International Brotherhood Teamsters' President, do you feel that you have an obligation to advocate that these provisions be affirmed by the Convention in 1991?

Mr. **McCarthy**. As I said before, I am going to do everything in my power to support them. I agree to this agreement, to this Consent Order, and I will do all I can to—and make my report accordingly, and do all I can to have them accepted.

Senator **Nunn**. Do you believe you have the right to turn around and oppose these amendments that have been imposed by the agreement if you choose to? Do you believe you have that legal right? And I will ask the same question to Mr. Grady.

Mr. **McCarthy**. I would say, no. My words, my bond.

Senator **Nunn**. So you believe you are bound by this, not only to adhere to it during the interim, but also to advocate this position before the Convention in 1991?

Mr. **McCarthy**. Yes.

Senator **Nunn**. Do you agree with that, Mr. Grady? Do you agree that that is an obligation of this agreement?

Mr. **Grady**. I believe that page 16, paragraph 12(F) of the agreement specifically provides that the—that middle paragraph on page 16 says that the delegates will be presented for vote, provided further, nothing herein shall be deemed or interpreted or apply to abridge the Landrum-Griffin free speech right of any IBT officer delegate or member, including the parties hereto.

So I believe that that reference preserves the free speech rights of just about everybody who is going to be at that Convention to speak, as we have come to know it in this Country, freely without fear. So that, yes, somebody may very well take a position—in our position—to the proposed confirmation of these amendments.

Senator **Nunn**. I guess what we are saying here—Mr. McCarthy believes that he has given his word, and he intends to stick to it.

You are saying as a matter of law, that the free speech provision in this agreement gives him the right to change his mind if he sees fit.

Mr. GRADY. That is a fair statement, Mr. Chairman.

Senator NUNN. And Mr. McCarthy is saying he recognizes that theoretical right, I suppose. Maybe I am going too far here, Mr. McCarthy. Now that your attorney, Mr. Grady, says that you have a theoretical right to change your mind, is it your present intent not to change your mind and to stick by this agreement.

Mr. MCCARTHY. My intention, yes, sir.

Senator ROTH. Would the Chairman yield?

Senator NUNN. Yes.

Senator ROTH. The Teamsters for a Democratic Union have issued a statement in which it says the following:

> To underscore the need for continued Government oversight of the problem, the President of the Teamsters Union and his general counsel spoke at all five Teamsters conferences last week about the ease in which the union will be able to extricate itself from the terms of the settlement at the 1991 Convention.
>
> They explained to hundreds of union officials that the delegates to that Convention could simply vote down the amendments to the IBT Constitution that are contained in the settlement, thus returning to its traditional undemocratic way of selecting its officers and conducting union business with a minimum of accountability to the dues paying union.

What is the basis for this statement? Mr. McCarthy, let me read it again. It says that the President of the Teamsters Union spoke at all five conferences last week about the ease of which the union will be able extricate itself from the terms of the settlement at the 1991 Convention. Did you make such statements at those conferences?

Mr. MCCARTHY. At CBU, it said?

Senator ROTH. Yes.

Mr. MCCARTHY. What you just had said, no. No way. We explained—I went from one end of the country to the other, including Canada, and met with all conference groups, with all of the delegates who would come, and they certainly—a lot of them did.

I made the recommendation—I did not make a recommendation. I made the report, and so did our general counsel, Mr. Grady, but no way told them to reject it. That is not so.

Senator ROTH. Nothing you said directly or indirectly could be construed as suggesting that the union would be able to extricate itself from these terms?

Mr. MCCARTHY. No, sir.

Mr. GRADY. Could I perhaps amplify, somewhat? We had meetings at each conference. We had five conferences throughout the Country in Washington, Chicago, Memphis, Tennessee, Los Angeles, California, and Toronto, Canada.

After the presentation which included the questions and answers that are in the magazine, and an overview and an explanation of the background of the negotiations, at each conference meeting, we had microphones set up and anyone who was there had an opportunity to ask questions.

At least two of them—questions were asked along the lines of the Chairman this morning concerning what happens if, and that was explained and they were all told that the Government has expressly reserved the right to return to court to take what action it deems appropriate under the circumstances in the unlikely event that that matter should develop.

Now, to the extent that that has been tortured into what you read from a piece of paper that we were not given, or have yet to see, is their lies—let us say, the problem with the statement. It is inaccurate.

Senator ROTH. Do you agree, Mr. McCarthy, that it is inaccurate?

Mr. MCCARTHY. Yes, I do.

Senator ROTH. And false?

Mr. MCCARTHY. Yes, Senator.

Senator ROTH. Thank you.

Senator NUNN. Let me ask a follow-up question along that line. As of Tuesday, April the 4th, and I believe that is today's paper, the Los Angeles Times states here—I do not know whether you have seen this. This is an article that says, "Teamsters split despite a court order," and one paragraph that pertains to this part of it says that in addition, persons attending meetings on the settlement said they were given the impression, that top Teamster leaders will campaign against direct secret ballot election of union officers in 1991.

Mr. McCarthy, is that the correct impression, that you or you or your top officials would be campaigning against the direct secret ballot election of union officials in 1991?

Mr. MCCARTHY. No, Senator, and if I may add, Mr. Chairman, is that this man is a poison pen writer. He constantly turns everything around. Constantly. All of his articles, and a good friend of the late President, Mr. Presser.

Senator NUNN. And who is that you are talking about?

Mr. MCCARTHY. Something like that——

Mr. GRADY. Weinstein.

Mr. MCCARTHY. Weinstein.

Mr. GRADY. Henry Weinstein.

Mr. MCCARTHY. But that paper——

Mr. GRADY. Including their editorial policies, I might add, Mr. Chairman.

Senator NUNN. Mr. McCarthy, by signing the consent judgment, did the International Brotherhood of Teamsters accept as accurate the Government's assertion that the Teamsters' union, quote, has been a captive labor organization which has been infiltrated, dominated, exploited and controlled by the La Cosa Nostra figures. End quote.

Mr. MCCARTHY. Did they sign it on that paper?

Senator NUNN. Did you agree with that Government assertion?

Mr. MCCARTHY. No. I have heard so much about Cosa Nostra—the so-called Cosa Nostra or that group—that it is not so. That again is the nuisance. Some of the poison pen writers. No matter what happens—somebody gets involved in a strike, some picket, there is some bad action going on, which we do not condone or try to stop—right away they say the Cosa Nostra.

No matter what we do it is a Cosa Nostra. That is not so. As far as the Cosa Nostra is concerned, I have been a Vice President for 20 years, and an officer prior to that in my local union. However, I have never been approached by Cosa Nostra.

We have them all over. They are in Boston. They are in New York. They are everywhere, and the only place that I know where our problem comes from Cosa Nostra from what I can gather. With all of the talk that may be done by the prosecutor or anybody else, it is from Detroit, from Michigan—the central States rather—is where our whole problem is. It is in the central States, and it has been in the central States because of the pension plan.

That is the Cosa Nostra. You have Williams and Presser that—one is a schemer and one is a liar, and they are both mixed up, as I say, with the Cosa Nostra by their own admission.

Fortunately—not fortunately—unfortunately, as the case may be, I was wishing someone would run against them. One man was going to run against them in both cases, and I would have supported them 100 percent. I did not care for either one of them, and because of the situation we have in the central States, and what has been going on in the central States—although the Government now is handling it.

Senator NUNN. Whatever the problems in the past—and I want to ask you some questions about that, but are you pledging here today, and have you pledged to your membership, which is the most important pledge, to eliminate people in the Teamsters Union who are from high offices, to remove them from high offices who are involved in organized crime, or involved in organized criminal activity?

Mr. MCCARTHY. Let me say, the record speaks—I have been in office for what?—9 months? 8 or 9 months—I was in office only 1 month, and I removed the Vice President of the General Executive Board from office.

Senator NUNN. What was his name?

Mr. MCCARTHY. Maury Schurr. We removed him from office for charges against him. I gave him 2 days of—a week, or rather to study it, to be prepared for it before the Executive Board. We gave the Executive Board a copy of the charges and so forth—he then—that morning—that we were going to put the case on. He resigned. He did not retire. The paper said he retired. He resigned.

Senator NUNN. You required him to resign?

Mr. MCCARTHY. I preferred charges. I know they would have stuck, and again, that goes in the future for any vice president, for any officer, even locally, if I get the facts. If I know what is going on, I will move without any question, and as I say again—or as you said about the membership come first there is no question. The membership got my title, my salary. That has nothing to do with it. They can have them all, but I am with the rank-and-file. Whatever our membership wants, that is what I want to do.

As I say, I go to the next Convention, if they want this, I am for it. If they do not want it, I am for the membership, for the rank-and-file all the way.

I am on the street with them regularly, all hours of the night and day. The minute I get an hour or two, I will go and visit them. I am for the membership. They made me, and I am going to do whatever I can to keep them happy.

Senator NUNN. Thank you, Mr. McCarthy. Let me just ask you about some of these past incidents, though, because they are part of the history of this law suit.

From 1970 through 1988, the Government has brought 200 criminal cases and have obtained 340 convictions resulting from Teamster-related criminal cases. Are you familiar with this pattern and this history and the tremendous number of Teamster officials that have been convicted? People associated?

Mr. McCarthy. No, sir. I do not know of that many, that is for sure. No. I do not know of that many.

Again, I do not know of that many, but those that are—I understand that most of them or a lot of them are the central States.

Senator Nunn. You are saying that most of the problems relate to the central States?

Mr. McCarthy. Central States.

Senator Nunn. And, of course, you are familiar with the fact that the previous five Teamsters' Presidents, people holding your position, three were convicted and went to prison. Are you not?

Mr. McCarthy. Am I familiar with it?

Senator Nunn. Yes.

Mr. McCarthy. I know they went to prison, yes. Three of them, let me see—yes, three of them.

Senator Nunn. A fourth one—Mr. Presser—was indicted on felony charges. So you are familiar with that record?

Mr. McCarthy. I am, yes, sir.

Senator Nunn. Does that not put an extraordinary obligation on you as President to change the course of the Teamsters from the past to a better future?

Mr. McCarthy. Oh, sure.

Senator Nunn. Are you familiar with the President's Commission on "Organized Crime that found, and let me quote from that.

"The leaders of the Nation's largest union, the International Brotherhood of Teamsters, have been firmly under the influence of organized crime since the 1950's, although many of the hundreds of IBT locals and joint counsels operating throughout the country are not criminally infiltrated.

"Organized crime influences at least 38 of the largest locals and a joint counsel in Chicago, Cleveland, New York, Philadelphia, St. Louis, and other major cities. Former Teamsters' President, Roy L. Williams, told the Commission, quote, every big Teamster local union had some connection with organized crime."

Have you read that?

Mr. McCarthy. No, sir. I am not familiar with the report at all. I never read the report.

Senator Nunn. Would it not be an advantage to read that report and take a look at it, since you are determined to change the route of the past to a better future?

Mr. McCarthy. I will eventually, yes, but I am up to my neck. Yes, I want to get into it, but now it is not that important to me. I am in after—it is what I want to do now. What is good for our union now, and as far as reading is concerned, I will have a full-time job. I have not got that time.

Senator Nunn. Mr. McCarthy, do you believe that this consent decree and this agreement that you have entered into, plus your own leadership—do you believe with this that you can indeed free the Teamster union from corruption? From corrupt influences that have been there in the past?

Mr. McCarthy. I will do everything in my power to do it. By all means, yes, sir.

Senator Nunn. Do you think it is possible to do it?

Mr. McCarthy. Well, there will always be someone who will have his hand in the cookie jar, sort of speaking, and I hope to correct it when we catch up with him.

Senator Nunn. There is a difference in some individual members going astray, which I would agree with your point. It is always going to happen, whether it is the Teamsters union, or whether it is a business organization, or whether it is the U.S. Congress or anyone else. There is a difference in that and pervasive, high ranking corruption and organized crime influence. There is a distinction there.

Mr. McCarthy. Okay, now I know what you are saying, and do I think that that can be straightened out?

Senator Nunn. Right.

Mr. McCarthy. By all means, yes.

Senator Nunn. Are you determined to do it?

Mr. McCarthy. I am determined to do it, yes.

Senator Nunn. Do you believe you have the support of your Vice Presidents and your top officials in that mission?

Mr. McCarthy. Yes, I do.

Senator Nunn. Do you believe you have the support of rank-and-file membership?

Mr. McCarthy. Yes, I do.

Senator Nunn. May I ask Mr. Grady a question here on the distinction between what has been described here in this agreement and what you had stated would be unacceptable, and that is a trusteeship. How do you distinguish between this agreement and a trusteeship?

Mr. Grady. Well, in a trusteeship, the elected officials are removed essentially, and the sort of a dictator comes in and he is called a trustee.

I suppose the term came out of bankruptcy court, where the trustee runs the business and approves all of the bills, appoints the lawyers, approves the appointment of the lawyers, and in effect, is the company. A trustee in a labor union situation becomes the union, and he directs the membership and the affairs of the union, whether it be a local or an international union.

That just runs a rush shot directly over Title I of the Bill of Rights of Landrum-Griffin, and also the Constitution and labor union members are, as we all know, fully protected by the United States Constitution as well as Landrum-Griffin, and a trustee just disregards these matters.

As I pointed out earlier, RICO disregards 50 years of hard-fought labor legislation, so we think it is an absolutely despicable result and to be imposed in a free society, we just think it is contrary to everything we have ever been taught about democracy.

Senator Nunn. So you are saying the fundamental difference between this agreement and a trusteeship is that the elected officials of the Teamsters, those chosen by the rank-and-file, are going to be in charge, but they are going to have oversight from the Administrator and the Investigative———

Mr. GRADY. Yes. In terms of the day-to-day affairs, we will, in effect, plug in the Administrator to the chain of events in terms of getting bills paid, so that he or she has an opportunity to review them and veto them.

I might point out, in the 109 pages of the Complaint, there is not a single reference to any improper conduct at 25 Louisiana Avenue. Our headquarters and the operations there, there had been absolutely not even a hint of any illegal activity in the way we run the International Union.

All the events—the 200-odd events you referred to earlier are out in other parts of the country at various affiliates, but the union itself—the headquarters is run in an effective and efficient manner, so we welcome this opportunity to have this gentleman there or this woman there, but we do not think they are going to find out anything, because the contract that they are going to veto, or the expenditure they are going to veto, or the appointment they are going to veto, has to be in and of itself a criminal act or an act of corruption, or somehow ingratiates the LCN into the union. I do not think they are going to find it. They can look, but I think it is going to be an exercise in futility.

Senator NUNN. They also have jurisdiction over the locals, do they not?

Mr. GRADY. Yes, sir, they do. The investigating officer with 3 business days notice can go into a local and look at their records. We have the right to have our accountant or attorney, or the local has the right to have his accountant or attorney present, and also they can take sworn statements.

But, they have to have reasonable cause, preliminarily or a threshold issue, and the individual has at least the right to 10 days notice and he has the right to have his or her legal counsel present during the questioning under oath.

Senator NUNN. As I understand it—I will ask both of you this question. The AFL–CIO Code of Ethical Practices states that if a union official invokes the Fifth Amendment "for his personal protection and to avoid scrutiny by proper legislative committees, law enforcement agencies or other public bodies into alleged corruption on his part, he has no right to continue to hold office in this union." Do the Teamsters subscribe to this AFL–CIO provision?

Mr. GRADY. If I may—that was I believe adopted in 1955, which as you know is 4 years before Landrum-Griffin was approved. It is my opinion that that is unconstitutional, that is—you should not be able to lose your elected office merely because you have exercised a constitutional right. And I have been advised by information and belief that the AFL–CIO no longer, and has not, enforced that provision even though it remains in their Code of Ethics.

Senator NUNN. So you do not think that section should be abided by because you think it is unconstitutional?

Mr. GRADY. Yes, sir.

Senator NUNN. How do you think it looks for the many Teamsters officials to over and over again take the Fifth Amendment? What do you do about that if you believe that this provision is unconstitutional? What do you do about the public perception and even the perception to the membership of seeing top officials come up and basically take the Fifth over and over again?

Mr. Grady. Well, I think I would, if I may Mr. Chairman, every member of the General Executive Board that was called to give depositions in this case, and every one of them was, not one took the Fifth Amendment, not one. I believe, it is either seven or nine local people took the Fifth Amendment over a couple hundred depositions and allegedly the reason was because of ongoing investigations of them concerning other matters.

And I would also point out that three present or former FBI agents took the Fifth Amendment in the depositions that we asked of them concerning this case. So, one of them is on the payroll and I understand he is the number 2 man in charge in the State of Nevada and he is still on the payroll and he is still functioning for the FBI despite the fact he took the Fifth Amendment in the discovery of our case.

Senator Nunn. Senator Roth.

Senator Roth. Thank you, Mr. Chairman.

Mr. McCarthy, you are quoted as saying you signed the Settlement Agreement reluctantly, and that the Government's RICO case was groundless. Why did you agree to the settlement if you thought the Government had no case against you?

Mr. McCarthy. Well, I agreed to it because the attorneys, general counsel, and five or six other of our attorneys made the recommendation to us.

Senator Roth. And they made it on the grounds there was nothing to the case?

Mr. McCarthy. No, they made it that it was a good settlement rather than go to bat, go to trial, and there was no question my position was, all the way along right to the end, that I did not want to settle it. I felt the Government did not have a case. In addition to that, I felt that if we had any problems, that we could straighten them out, and we were straightening them out as I give you one example—and I have others to follow up—the Maury Schurr case, a Vice President, which never happened in the history of our union, but I did it.

But then the attorneys made the recommendation and as I say, I did not agree until probably 2 in the morning on the Monday morning, but when I heard that I had to go to trial alone—which was all right with me—but when they told me what it would cost me, I think they said a $1,200,000 for me to go on trial alone, it was only me that was taking the position, I already guess I owe my lawyer a couple of hundred thousand dollars already to represent me.

So on that basis, and then on all of the other stuff that was involved in it, arguing and talking about it with my attorneys it convinced me of it, I then agreed to settle, to go along with the agreement with the consent.

Senator Roth. In your joint prepared statement, you assert that the allegations in the Justice Department suit are, and I quote, "false and shameful." But in your deposition in that lawsuit—and I am quoting from the October 11, 1988 *Los Angeles Times*—you said that during your entire 50-year union career, you had never questioned Jackie Presser or any other union official about charges that the Teamsters Union was influenced by organized crime. Is that a correct statement?

Mr. McCarthy. I don't know, I will have to read the deposition. I don't remember that. I have always disagreed with him. I have argued with him since the day I met him.

Senator Roth. Let me ask you this. Is it true that you never asked Jackie Presser or any other union officials about these charges that the Teamsters Union was influenced by organized crime? As an official of the union, wouldn't that be a matter of concern to you?

Mr. McCarthy. I am not sure. I am sure I had something to say. However, I did question him about Schurr and maybe that may have discouraged—after I got through talking and arguing with him about that that Schurr should go, and I am not sure now.

Senator Roth. Well, you are testifying now that as president——

Mr. McCarthy. Yes.

Senator Roth [continuing]. You would certainly take appropriate action to help clean out any corrupt influence, if I correctly understood what you were saying.

Mr. McCarthy. Yes, Senator.

Senator Roth. Was that not true in the past on your part?

Mr. McCarthy. Oh, sure. But I did not have the power or the authority.

Senator Roth. But you were an officer?

Mr. McCarthy. I was a vice president, yes.

Senator Roth. And as a vice president, you have no responsibility to help ensure that the union is not corrupted by organized crime?

Mr. McCarthy. I have the responsibility, yes. And I argued it.

Senator Roth. Did you ever seek to investigate or determine whether there was any merit to these claims?

Mr. McCarthy. No, I felt that it was his responsibility as general president.

Senator Roth. Did you feel investigating corruption is only a responsibility of the president, and not other members of the union?

Mr. McCarthy. No, other members of the board, too, but I was sitting out there alone.

Senator Roth. Well, be that as it may, how can you say that the lawsuit's allegations are false and shameful if you never asked any such questions in the past?

Mr. McCarthy. Well, if I said it that way, I am saying to you and what I meant was, that I just felt that they did not have a case, and I felt in addition to that that we could straighten out this. I could, and so could I do it with the rest of the members of the executive board. The present members and the new members of the executive board.

Senator Roth. Now, Mr. McCarthy, questions have been raised regarding your alleged connections to organized crime. Jackie Presser, then Teamsters president, is quoted in FBI reports as saying that you wanted the secretary/treasurer's position, but had to obtain the approval and backing of Raymond Patriarca, head of the New England LCN family, in order to get that job. Is that a fair statement?

Mr. McCarthy. No way. That is what he said to me. I was, without any question, looking for that—well, my position was, again with Presser, is that I was against, and still am, having two principals—president and secretary/treasurer, the principal offices of the top men—to be from one conference. I was against that.

I talked to him, and he paid no attention. I told someone else I am going to take him on, some way, some how. We have to go to the convention. I am against having two, as I just stated, the two people. However, he then called me in to Washington and asked me if I was interested in something along that line, and I said yeah, I want it. I would like the job.

Ray Schoessling was talking about retiring, and then, yeah, I said I wanted it and then he said to me, you got to get clearance. I said from who? For what? He said, Patriarca. I said there's no way. I do not talk to them. I do not even know him. And I did not, and I do not now. Well, he is dead now, but I did not know him. And he said did you have to get clearance from him.

I did not talk to him and nor would I. And they have never bought into these so-called—as I said before, the Cosa Nostra is all over the countryside. They are in Boston as well, and I have never been bothered by them, him or anybody else and I have a pension fund where we have a $1,500,000,000 in it. And they have never come to me, and pension funds are supposed to be something they are interested in, so they say. They have never approached me and never came to me.

I have not talked to any of them. I know of them, but that is it. Again, I must emphasize that that is a lie what he had said, definitely flipped the whole thing around. But there is no way and I hope I do not leave from this chair if it is otherwise.

Senator ROTH. In other words, Mr. McCarthy, you do not know Mr. Patriarca? You have never met with him?

Mr. MCCARTHY. No, Senator.

Senator ROTH. Never been associated with him in any way?

Mr. MCCARTHY. No, Senator.

Senator ROTH. Even if you do not acknowledge the influence of organized crime on the Teamsters, I am sure you realize that the public believes your union has a corruption problem. Now you have mentioned one or two steps that you have already taken in removing a vice president, I believe, from office, on the grounds of his background.

What further action do you intend to take to clean up the image of this most important union?

Mr. MCCARTHY. I will take any action as necessary, where there is bad goings on.

Senator ROTH. Do you feel it is necessary for you to institute any kind of investigation at this time? These charges have been with us for the last 30 years. In the 1950's, the Justice Department first claimed that the Teamsters were influenced by organized crime.

Don't you think at this time it would be worthwhile for you to initiate the kind of investigation that would either ensure that these charges are wrong, or, if they are true, take the necessary steps to correct them? Or do you just stay in the ivory tower and wait until something bubbles up?

Mr. MCCARTHY. I am in no ivory tower, that is for sure. I am in hell. [Laughter.]

I certainly intend to do—if something is not brought to my attention, I find out. I certainly will take action on it. You know, the

Government, they had insinuated about certain members of the board, certain things they were involved in, or supposed to have been with Cosa Nostra, or shenanigans, or whatever, but nothing has ever been done.

I do not know what they are in the first place, and in the second place, if this is so, why did not the Government prosecute, indict, and do something about them? I did it already. I did it with ones I told you with one individual and I will probably do it with more. And I know I will if I get the facts.

Senator ROTH. There is a statement in today's Los Angeles Times that says, "Sources attending the meetings also said that McCarthy attacked his predecessor, the late Jackie Presser, as a stool pigeon because Presser had served as an FBI informant for nearly a decade." Is that an accurate quote?

Mr. MCCARTHY. It could be, yes, sir.

Senator ROTH. Do you think Presser was wrong to cooperate with the Government?

Mr. MCCARTHY. He was not cooperating, he was scheming for himself, because there is a lot of phony-baloney stuff there as I understand that is in there. He talked about, well I do not want to name the individuals. The vice president had nothing he could say about him. As a matter of fact, did you read what he said about me?

Senator ROTH. Again, let me ask you——

Mr. MCCARTHY. If I may interrupt you, that as far as statements that he made, they were false. He said to one man, though he could not find anything on that man, so he said he was an alcoholic, a drunk.

Senator ROTH. Let me ask you this question. Do you think it is important that the influence of organized crime be eliminated from any union?

Mr. MCCARTHY. If it is there, yes, by all means. Without any question. Cosa Nostra in my opinion, is not there.

Senator ROTH. It is not anywhere in the Teamsters?

Mr. MCCARTHY. It could be in, say it was. I would say it is not anywhere at this time, that I know of.

Senator ROTH. But again, let me go back. If an individual such as Jackie Presser believed there was such influence, would you attack him as a stool pigeon for cooperating with his Government?

Mr. MCCARTHY. No. But I called him a crooked stool pigeon. He lies. That is why I give him the name.

Senator ROTH. What do you think Presser was doing, what was his purpose in providing this information to the Government?

Mr. MCCARTHY. What was he doing?

Senator ROTH. Yes.

Mr. MCCARTHY. Protecting himself and also, I guess, looking to help himself in any way he could. Personally, not for the good of the union. I do not mean the informant stuff, but anything he did was for his benefit, whatever his schemes may have been.

Senator ROTH. The Settlement Agreement calls for the direct election of union officials in 1991, with the elections to be held at union locals where there exists great potential for fraud. What steps are you prepared to take to ensure that these elections are fair?

Mr. McCarthy. Well, I will do everything possible. The committee—of course, the court office will set this up. And we will abide by and try to improve and help them and advise them in regards to doing that.

Senator Roth. The agreement calls for 7 of the union's 18 leadership positions to be elected on a union-wide basis. This is an expensive undertaking, particularly for those members who want to run for office but are not widely known.

What steps are you prepared to take to encourage rank and file, with which you say you associate yourself, to run for office? For example, will you make space available in Teamsters publications without charge for all candidates prior to an election? Will everybody have an equal opportunity to present their case?

Mr. McCarthy. Oh, by all means, yes, sir. And we will do it through the magazine as well.

Senator Roth. And that will be available to all candidates on an equal basis?

Mr. McCarthy. Yes, sir.

Senator Roth. Thank you, Mr. Chairman.

Senator Nunn. Thank you very much, Senator Roth.

I would like to just pursue and perhaps go over a couple of the questions in a little bit more detail that Senator Roth has raised. I think that most of the FBI files relating to Jackie Presser have been made public and are available. I had my staff go through 2,000 pages that have been basically made available to the public.

We find that only 11 pages of information related to you, and I want those 11 pages to be marked and introduced into the record and copies given to the witness.

I understand all of this had been turned over to your attorney.

Mr. Grady. We got what they call a redacted version. The third volume of the third set is practically, entirely blank and a lot of what we got has been crossed out and deleted. We have yet to get a version that is complete.

Senator Nunn. Well, my questions will be related to the same version that you have.

Mr. Grady. Thank you.

Senator Nunn. The record on this is somewhat mixed. There are certain parts of it, Mr. McCarthy, that Senator Roth already asked you about, alleging your connection with certain organized criminals, people who are part of organized crime.

And on the other hand, Mr. Presser alleges that the New York family does not trust you and the New York family does not like you. And then on July 22, Presser told the FBI that the reason he would prefer to appoint McCarthy is that, "McCarthy is straight and will be loyal to himself and to the Teamsters."

So, on the one hand he is making statements connecting you with organized crime, and on the other hand he seems to be inconsistent on that point. And he gives certain contradictions. I think you ought to be given the opportunity to respond to specific matters in those files, though, and Senator Roth has already referred to them.

Let me go over them just for clarity's sake. On fourth month, fourth day of 1984, Jackie Presser provided the following information, according to these files, "source advised that Jackie Presser has approached Billy McCarthy, International Vice President of IBT regarding his replacing Ray Schoessling, when he retires. Presser has further indicated that before any action is initiated in this regard, that McCarthy must obtain the appropriate endorsements. McCarthy indicated to Presser that he, McCarthy, would have to make contact with Raymond Patriarca."

Now, I believe you have already responded to that, but let me ask you again to be absolutely sure. Did that occur? Did you tell Presser that you would make contact with Raymond Patriarca?

Mr. McCARTHY. No way. He asked me to make contact, it is just the reverse. No way did I say that to him or would I.

Senator NUNN. Do you recall when this conversation took place?

Mr. McCARTHY. Well, it was after—I am not good on dates, time, but I would say it was when the word got out that Schoessling was going to retire. And I think it was about 1984, 1985, I am not sure.

Senator NUNN. This Presser revelation comes in April of 1984, so perhaps it would have been before that, is that possible?

Mr. McCARTHY. It is possible, yes.

Senator NUNN. Another Justice Department memo that has been made public states, dated fourth month, 19th day, 1984, "Jackie Presser advised that William J. McCarthy, current fourth Vice President, greatly desires the position of General Secretary/Treasurer. McCarthy will provide a signed, undated memorandum of resignation from the position of General Secretary/Treasurer to Presser, the General President, upon achieving that position. To date, Schoessling has not advised the Chicago LCN of his desire to retire.

"McCarthy, on the other hand, must obtain the approval and backing of LCN boss Raymond Patriarca, for his elevation to the position of General Secretary/Treasurer. Presser also stated that the President, IBT and McCarthy recently discussed McCarthy's replacement of Schoessling. McCarthy told Presser that he would obtain the approval and backing of Patriarca for his promotion. Presser anticipated that Patriarca will then contact Anthony Salerno, boss of the Genovese LCN family in New York City. Presser reports to Salerno through the acting boss of Cleveland LCN, John Tronolone"—if that is the right pronunciation. Do you have any comments about this entry?

Mr. McCARTHY. That is not so. And I told you about Patriarca. That is not so, that was just the reverse. As far as me signing that blank——

Senator NUNN. Did you sign a blank——

Mr. McCARTHY. No. I do not remember any discussion of that either way, from he or I. I know I did not. There is no way would I sign anything on that basis.

Senator NUNN. So you never have signed a blank resignation?

Mr. McCARTHY. No, and I do not remember him even saying it, truthfully.

Senator NUNN. And is it true that you did desire the position of General Secretary/Treasurer? Is that part true?

Mr. McCARTHY. Oh, yes.

Senator NUNN. Well, let me ask you again for the record. Have you ever met Raymond Patriarca, Senior?

Mr. McCARTHY. No, sir.

Senator NUNN. You ever spoken to him——

Mr. McCarthy. No, sir.

Senator Nunn [continuing]. On the telephone or otherwise?

Mr. McCarthy. No, sir.

Senator Nunn. Have you ever met Raymond Patriarca, Junior?

Mr. McCarthy. No, sir.

Senator Nunn. Have you ever spoken to him?

Mr. McCarthy. No, Mr. Chairman.

Senator Nunn. How many conversations do you recall having with Mr. Presser on the subject of you becoming the Secretary/Treasurer?

Mr. McCarthy. Oh, I would say probably three.

Senator Nunn. Three or four?

Mr. McCarthy. Yes, three or four.

Senator Nunn. Were they in the same general time frame?

Mr. McCarthy. I would say within maybe a month or two.

Senator Nunn. Who initiated the conversations?

Mr. McCarthy. Well, I guess it was me sending word out, telling him, also saying that my position on the two top men being from the same conference, in that I would not agree to it. And then that got it going, and then we got into about Ray Schoessling getting through. And I said I want that job. I would like to be appointed to it.

Senator Nunn. When the subject of getting the approval of organized crime came up, you state that Mr. Presser was the one that brought up not yourself, right?

Mr. McCarthy. Yes, Mr. Chairman.

Senator Nunn. What was your reaction to that when he said it?

Mr. McCarthy. I said there is no way would I talk with him, or anybody else.

Senator Nunn. You just rejected that out of hand?

Mr. McCarthy. Oh, yes.

Senator Nunn. What did he say then?

Mr. McCarthy. He did not say anything.

Senator Nunn. You just said no way, you are not going to do it?

Mr. McCarthy. I said no way, yes.

Senator Nunn. Did he ever use the term "the boys" with you?

Mr. McCarthy. That the boys are with you?

Senator Nunn. No. Did he ever use the term referring to organized crime, use the term "the boys?"

Mr. McCarthy. The boys are with me?

Senator Nunn. No. Did he always state the names of people he wanted you to contact in organized crime, or did he use certain terms?

Mr. McCarthy. He used the one name, Patriarca, I think.

Senator Nunn. He used Patriarca.

Mr. McCarthy. Or the boys, all right, yeah.

Senator Nunn. Did he ever use the term "the boys?"

Mr. McCarthy. Well, from reading now, Jim is bringing it to my attention, yes.

Senator Nunn. Well, did he use the term the "wiseguys?" Did he use those terms?

Mr. McCarthy. No, I don't think he ever—now I say the boys. Yes.

Senator Nunn. You remember he used the term——

Mr. McCarthy. I understand the term "the boys."

Senator Nunn. Did you know who he was talking about?

Mr. McCarthy. Now I do not go for that term, "wiseguys" neither. They, to me, they are not the boys or the Cosa Nostra. Wiseguy in my opinion, that way I was brought up, was a wiseguy on the corner say something to a lady or something to somebody else as a wise question. That is my opinion. I have never used that term, that they are wiseguys, I guess other people do. But the boys, and I did not use the term the boys neither.

Senator Nunn. So those were not your terms, those were his terms?

Mr. McCarthy. Yes, sir. Yes, Mr. Chairman.

Senator Nunn. Do you ever recall asking him who he meant by the boys or the wiseguys?

Mr. McCarthy. I say I knew who he meant the way he was talking.

Senator Nunn. How did you know who he meant?

Mr. McCarthy. Because the way he was talking, when he mentioned Patriarca and others. Patriarca, really, not the others.

Senator Nunn. Did he mention anyone other than Patriarca?

Mr. McCarthy. No. I cannot think of anybody else, no, sir.

Senator Nunn. Did you get that appointment as Secretary/Treasurer at that time?

Mr. McCarthy. Did I what?

Senator Nunn. Did you get the appointment as Secretary/Treasurer?

Mr. McCarthy. Oh no, no.

Senator Nunn. Who got that?

Mr. McCarthy. Weldon Mathis.

Senator Nunn. Weldon Mathis?

Mr. McCarthy. Yes, sir.

Senator Nunn. From Georgia, Atlanta?

Mr. McCarthy. Yes, sir.

Senator Nunn. Do you know anything about that appointment and why he got it?

Mr. McCarthy. Why he got it? No, just that evidently he was—I do not know why he got it, no.

Senator Nunn. Do you believe you did not get it because you did not go to see Patriarca, or were not willing to see him?

Mr. McCarthy. I do not know.

Senator Nunn. No one ever told you that?

Mr. McCarthy. No, but I argued with him. I called him everything under the sun when he made the appointment.

Senator Nunn. Called who?

Mr. McCarthy. Presser

Senator Nunn. To his face?

Mr. McCarthy. Yeah.

Senator Nunn. Face to face meeting, or on the phone, or how?

Mr. McCarthy. Face to face, right after he made the appointment. I was shocked when he made it.

Senator Nunn. What did you tell him?

Mr. McCarthy. I told him everything. I do not want to repeat it. [Laughter.]

Senator NUNN. You do not have to repeat the words, but why were you mad with him? What did you accuse him of?

Mr. MCCARTHY. Because I thought that I would be the Secretary/ Treasurer.

Senator NUNN. You think he had committed to you?

Mr. MCCARTHY. Yes.

Senator NUNN. Did he ever commit to you?

Mr. MCCARTHY. As far as I am concerned, he did. He did not say no.

Senator NUNN. Do you believe your unwillingness to talk to Patriarca or to the boys had anything to do with you not being selected?

Mr. MCCARTHY. I do not know, Mr. Chairman, no.

Senator NUNN. Do you know anything about whether anyone else made any kind of deal with the boys in order to get that job? Mathis or anyone else?

Mr. MCCARTHY. No, sir, I do not know.

Senator NUNN. You do not have any personal knowledge of that?

Mr. MCCARTHY. No, sir.

Senator NUNN. Do you know an individual named Anthony Salerno?

Mr. MCCARTHY: No, sir.

Senator NUNN. Never met him?

Mr. MCCARTHY. No, sir. Anthony Salerno, no, that's one of those, no.

Senator NUNN. Did you ever talk to Anthony Salerno?

Mr. MCCARTHY. No, sir.

Senator NUNN. Never on the telephone or anyone else?

Mr. MCCARTHY. No, sir. I do not know him.

Senator NUNN. You do not know him. Did you ever send anyone to see him on your behalf?

Mr. MCCARTHY. No, sir.

Senator NUNN. Did you ever send anyone to see Patriarca on your behalf?

Mr. MCCARTHY. No, sir.

Senator NUNN. You ever heard of an individual named John Tronolone?

Mr. MCCARTHY. No, sir.

Senator NUNN. Never met him?

Mr. MCCARTHY. No, sir.

Senator NUNN. You ever heard of him?

Mr. MCCARTHY. No, Mr. Chairman.

Senator NUNN. Ever send anyone to talk to him on your behalf?

Mr. MCCARTHY. No, sir.

Senator NUNN. I am a little bit puzzled on a couple of points you made. One is that you say you rejected Presser's suggestion that you see Patriarca; is that right?

Mr. MCCARTHY. Yes, sir.

Senator NUNN. You flat out rejected that?

Mr. MCCARTHY. Yes, sir.

Senator NUNN. And he did not respond to that?

Mr. MCCARTHY. No, sir.

Senator NUNN. But then you say you were angry when he appointed someone else?

Mr. McCarthy. Yes, sir.

Senator Nunn. Why were you surprised that he did not appoint you if, indeed, he had told you to see Patriarca and you just refused to do so?

Mr. McCarthy. I am surprised because I did not think that was a big factor. I thought that I had it, because he did not tell me I did not.

Senator Nunn. So you did not feel that that was that important a condition that you see the boys? You did not think he was laying that down as a condition?

Mr. McCarthy. I think he was probably, but I did not think that that would hold me from getting that job.

Senator Nunn. You did not think it was that important, then?

Mr. McCarthy. To get the job? I think it was important to talk to Patriarca? No way.

Senator Nunn. In other words, you knew that that was being laid down as a condition but you did not think that would, if you failed to do that, it would block you from getting that job.

Mr. McCarthy. I was not sure. However, as I say, I thought that he would at least come and tell me, call me in whatever, that I am scratching, that you cannot get the job, you have not been cleared, or whatever.

Senator Nunn. Didn't he tell you that that was something you had to do right away?

Mr. McCarthy. That is what he said as far as I had to see Raymond Patriarca, yes.

Senator Nunn. Did the fact that you were asked to see Patriarca and didn't see him and you felt—did you feel that that really was the reason he didn't appoint you to Secretary-Treasurer?

Mr. McCarthy. I don't know why he didn't appoint me.

Senator Nunn. But did that make you angrier, the fact that that was in the background that you had refused to do what he told you—Pressler told you to do?

Mr. McCarthy. I didn't like what he did, but I don't know why he didn't appoint me, whether it was that or something else. I don't know what it was.

Senator Nunn. Where were you when you faced him—when you had a face-off with him?

Mr. McCarthy. I think it was in—it was at a general executive board meeting. I think it was in Arizona. I am not sure, Mr. Chairman.

Senator Nunn. Was it shortly after the appointment of Weldon Mathis had been made?

Mr. McCarthy. Oh, it was right that day that he made it.

Senator Nunn. So it was done while you——

Mr. McCarthy. He announced and made a recommendation, approval that Weldon Mathis be the Secretary-Treasurer, and so forth, and then the meeting was over and he started to walk away and I——

Senator Nunn. So the first you knew about it was at that convention, at the meeting?

Mr. McCarthy. At the executive board meeting.

Senator Nunn. It was the executive board?

Mr. McCarthy. Yes.

Senator **NUNN**. It wasn't convention-approved; it was just an appointment?

Mr. **MCCARTHY**. Executive board, yes; appointment, yes.

Senator **NUNN**. So it was after the meeting that you confronted him?

Mr. **MCCARTHY**. Yes, sir.

Senator **NUNN**. What did he say when you accused him of going back on his word, or did you accuse him of that?

Mr. **MCCARTHY**. Oh, yes. He was flabbergasted. He didn't know what to say. He didn't say anything. I said my piece and took a walk, got away from him. I wanted nothing to do with him.

Senator **NUNN**. Mr. McCarthy, do you have anything else you would like to add here this morning, or Mr. Grady?

Mr. **GRADY**. I would, just very briefly. Mr. Romano in his opening statement referred to our election procedures as in place before the settlement agreement as a sick joke. I would just, for the record, like to point out that the same Justice Department that Mr. Romano is employed by supported our position in litigation when there was a case brought against us—excuse me, the Department of Labor, and the Teamsters Union intervened.

That case went to the United States Court of Appeals for the District of Columbia Circuit. The name of the case is *Theodus* v. *McLaughlin*, the Secretary of Labor, and on August 5th, 1988, the Circuit Court of Appeals affirmed the district court and affirmed fully the method we elected our general officers at the 1986 convention, stating that they are fully in accord with the Landrum-Griffin law.

And the entity that wrote the brief in support of the Secretary of Labor was the United States Department of Justice, Freddie Lipstein, Attorney, Appellate Staff, Civil Division.

So I think it is somewhat unfair for another employee of the Department of Justice to refer to what Mr. Lipstein worked very hard—and this is his brief in support of our position, to say that it was a sick joke.

And by the way, in fairness to the present United States Attorney, he wasn't the United States Attorney when I brought this material to the attention of Mr. Giuliani. So it is possible he is not aware—Mr. Romano is not aware of this fact, but for the record it should be noted that the system that we have changed from, there was nothing illegal, unlawful, immoral, or undemocratic about it. It is just another way of doing it. And by the way, it is a way that this Congress in Landrum-Griffin approved.

So I thank you for the opportunity to correct that record.

Senator **NUNN**. Of course, Mr. Grady, thank you for correcting the record, but it is true that that system has produced three presidents of the International Brotherhood of Teamsters who have been sent to jail, one other that has been indicted, and the one indicted, Mr. McCarthy has had a number of revelations about here this morning.

So, obviously, the system that was in place before this consent decree or agreement was not producing the most exemplary of national leaders.

Mr. **Grady**. Well, sir, the question remains, I suppose, do you blame the system or do you blame those who choose it there for having a bad choice.

Senator **Nunn**. I don't know. That is a good question for you. Would you answer it?

Mr. **Grady**. Well, I don't think—don't forget, all the delegates at the 1986 convention, even if they went by virtue of their office, they had to be chosen by secret ballot to have the office in the first instance. So everybody there had been elected by secret ballot in one form or another.

Senator **Nunn**. To get in?

Mr. **Grady**. Yes, sir. This way, the new way, it is a clean vote for delegate; that is, you don't go by virtue of your office. And it is possible that that will open up, let us say, the delegate to people who otherwise wouldn't be.

And the other part that is important is that the elected business agents will work harder in their job to please the membership so they can be elected delegate. So it has a two-fold way, and it may be that the result will be the same.

Senator **Nunn**. Mr. McCarthy, how do you view that? Do you think this new procedure has a chance of electing better national leaders than we have had in the past in the International Brotherhood of Teamsters?

Mr. **McCarthy**. I have got some questions on it. See, if they elect—it is a popularity contest in all local unions, like it is with other elective jobs, not all elective jobs. But in the first instance, it is not what you know; I guess it is who you know, and it is a popularity contest and that is what I am worried about.

They just want to go to a convention and have a good time. They forget about what goes on, but when the business agent is elected by virtue—when a business agent or officer runs for his position, it states on the ballot, and it is in large print, I am pretty sure—at least in our local it was—that if you elect me as your president of Local 25, by virtue of that election I automatically become a delegate to the convention. It is very clear there.

Now, as I say again, a lot of them, it is a test as well. Again, though, what I have gone through is that when—it is a popularity contest, as I say, and it is the convention and it is a stepping stone for that individual to run, then, for president, for business agent or for some other position. That is the way they start.

But in most cases, I say as far as them getting elected—and we had more delegates than we had officers that went to the convention, rank-and-file members. In most cases, in my opinion, it was just a trip for them; it was a junket. They didn't do their job.

But with an elected business agent, he knows what is going on. He does know that if goes wrong on votes on amendments to the constitution or whatever and votes for the wrong—votes for people that they don't like, it is going to be—and every local newspaper has it, a complete report.

So I say it is good in one hand, but on the other hand I don't—I am not sure it is going to be that good.

Senator **Nunn**. Of course, all the rank-and-file that get to vote in these elections are not going to go to the convention now. They will be voting, I assume.

Mr. McCarthy. But they are going to be voting for—oh, but they are going to be voting for the officers—I mean, for the delegates to the convention.

Senator Nunn. But they will also be voting directly for the president.

Mr. McCarthy. Yes, and that is another thing. Okay, that is going to be——

Senator Nunn. That is what I am speaking about.

Mr. McCarthy. Oh, all right. That is going to be a costly one. Another way we have right now—we have local unions that have probably five areas, or even more, where they have the elections all over the countryside, and then the ballots are brought in, and so forth. They count them there or whatever.

Then, in addition to that, these are walk-ins and when they come in to vote in an election for officers, probably 30 percent of them vote. I have a local—well, I have them down to about 8,000 now. When we have a walk-in, meaning they come in to vote from the street, we sometimes got only—well, when we had 10,000, I think we only got 3,000 members to vote, and we put tremendous campaigns on.

Senator Nunn. You think there are not going to be that many Teamster members that vote in the direct election of the national president?

Mr. McCarthy. That is what I am worried about, yes.

Senator Nunn. Are you going to do everything you can to see that they vote?

Mr. McCarthy. Oh, yes, because I want to get elected by them; you ain't kidding, I sure do.

Senator Nunn. Okay. Any other comments, Mr. McCarthy?

Mr. McCarthy. I have nothing else to say.

Senator Nunn. Mr. Grady?

Mr. Grady. I would just like to say that the Senator that left referred to the TDU. They sought to intervene in this case and Judge Edelstein denied their motion to intervene. I think that should be on the record. He also asked them how many members they had.

Senator Nunn. Who is this, the——

Mr. Grady. The Teamsters for a Democratic Union.

Senator Nunn. Yes.

Mr. Grady. The judge asked the attorney representing them how many members they had. He said about 10,000. He asked someone what is that percent. Well, if you do the arithmetic, it is six-tenths of one percent of our total membership. So whatever they are putting out, I hope the Committee would read it with that background.

Senator Nunn. Well, in the direct elections that are going to be coming up, it is going to be interesting to see, and we hope that the membership, and I know you do, will participate and exercise their rights. In the final analysis, that is the way you clean up anything and keep it clean is if the membership insists on it.

Mr. Grady. We are fully in accord with that, Mr. Chairman.

Senator Nunn. Thank you both for being here.

Mr. Grady. Thank you.

Mr. McCarthy. Thank you very much; thank you all.

Senator Nunn. Mr. Romano, we will call you back up for questions. Again, you can bring your associates. We are delighted to have them. Do you want to make any comments in response to the previous testimony before we get into specific questions? If you do, I would be pleased to receive it.

Mr. Romano. Only one brief comment. There was a reference made that Mr. McCarthy took some credit for disciplining a Mr. Schurr as soon as he ascended to the presidency of the union.

Senator Nunn. If you could pull that mike up maybe over here on the side, it won't—you have got to get as close to it as possible.

Mr. Romano. I should—just to fill out the record somewhat, I should point out for the Committee that Mr. Schurr's offense was committed in 1983 and he began serving his prison sentence in 1984. And during that time, Mr. McCarthy was on the general executive board, and I presume that as a board member he had the authority to suggest and recommend that the board as a whole take some action against Mr. Schurr.

I commend Mr. McCarthy for doing it, even if it came 4 years too late from our perspective. But I think he hardly deserves high praise for having waited until 1988 to take this action.

Senator Nunn. What offense was it that had been committed?

Mr. Romano. It was a direct union-related offense. I think it was a Taft-Hartley violation.

Senator Nunn. A criminal offense?

Mr. Romano. A criminal offense.

Senator Nunn. It was actually a conviction?

Mr. Romano. A conviction and a—followed by a prison sentence which he actually served, and he remained a member of the board until 1988.

Senator Nunn. Any other——

Mr. Romano. That is all I have to say, Mr. Chairman.

Senator Nunn. We have covered—and I read the various provisions of the agreement in questioning Mr. Grady and Mr. McCarthy about the apparent, or at least the possible conflict between various provisions of the agreement. You have heard all of that and I won't repeat it, except to get down to the bottom line of the question.

Do you believe that the Teamsters Union has the right to amend or reject the provisions that have now been inserted by this agreement and by the court in the constitution of the IBT?

Mr. Romano. We believe that they do not have the right, or if they exercise their First Amendment right and vote it down——

Senator Nunn. You believe they have that First Amendment right to vote it down, then?

Mr. Romano. Well, let me try to separate it out. I believe they have the right to pass on the question and confirm this agreement, confirm the amendments that exist as of this moment to the constitution.

Senator Nunn. Well, the question is do they have the right to reject it, though.

Mr. Romano. If they are willing to run the following risks. If they reject that agreement when they are asked to vote on it—and we have made this absolutely clear in the course of negotiating the settlement that we will seek to enforce the agreement and we, if necessary, will seek to have contempt sanctions imposed upon the union as an entity.

They have retained their First Amendment rights under this agreement, so they can exercise it if they choose to pay that price. But we have told them, and we are saying it again today, that the moment that—if this agreement is voted down, we expect to be in court seeking to enforce this agreement. And if it is necessary, we will reopen the litigation and go through to final judgment.

The apparent inconsistency that the Chairman has focused on arises because there is a legal issue whether a judge in the context of this case can force the amendment of a constitution of an international union and thereby indirectly affect the governance of local unions under that constitution.

That legal issue would have existed in this case had it gone to judgment, because had it gone to judgment through appeals and we sought to impose the reforms that way, we expect that the issue would have arisen legally; a legal challenge would have been raised. We think——

Senator NUNN. What do you—go ahead.

Mr. ROMANO. If I may just finish?

Senator NUNN. Surely.

Mr. ROMANO. We think that we can obviate that legal issue or substantially minimize the risk of that legal issue arising by having the union members exercise their rights and ratify this agreement.

We still believe that we are entitled, if they choose to reject it, to force the issue and have it decided by the courts, whether a judge can amend the constitution in the manner it has been amended by this agreement.

Senator NUNN. May I ask this question? Why do you need to amend the constitution? Why not just have a court order that says, notwithstanding the constitution, you do certain things? It seems to me the court always has the right to void a corporate charter or to do things of that nature. Why go through the legal gymnastics of amending a constitution which is adopted by individual members?

Mr. ROMANO. Well, in part, because we hope that through the amendment of the union's organism, the document that defines how the union functions, that the union will operate with the independent review board for an indefinite period, well into the next century if necessary.

We do not think the perfect situation is to rely on the continuing supervision of a district court judge. We want to make——

Senator NUNN. But you are hoping the union leaders and the union members themselves will, indeed, ratify and incorporate this in their constitution as a permanent part of their governing procedure?

Mr. ROMANO. Absolutely, and we hope that the election officer, with the assistance of the court-appointed administrator, will set about as soon as they appointed educating the members of the union on the benefits bestowed upon them by this agreement and make this agreement something that they want to make succeed.

By making it a part of the normal political processes in the union, we hope that the reforms will have enduring effects.

Senator NUNN. Mr. Romano, do you believe that Mr. McCarthy and the other leaders—you have heard him say this morning that he intends to abide by this agreement. You have heard Mr. Grady say that under the free speech provision that is inserted in this agreement, he has not waived his right to change his mind.

You have heard Mr. McCarthy say that he doesn't intend to change his mind; that he plans to stick with it and he plans to advocate this course of action. So you have heard that.

Is there anything in either one of those statements you disagree with? Do you agree with Mr. Grady's statement that he has the right to change his mind theoretically and to advocate that the members vote this down?

Mr. ROMANO. Well, the agreement itself provides that the union retains whatever rights it has under the Landrum-Griffin Act and whatever rights it has under the First Amendment. Therefore, I cannot disagree that they have the right to change their mind.

The agreement also provides what the consequence to that would be if that change of mind results in a rejection of this agreement. We would be back before Judge Edelstein either seeking contempt sanctions or seeking to restore this case to the trial docket.

Senator NUNN. But it seems to me those are two fundamentally different things. I am not pretending to reassert my role as a lawyer here, which I have been away from for some time, but it is one thing to say if they vote this down under their free speech provision, you have the right to go back to court and seek remedies. I think that is abundantly clear.

It seems to me it is a fundamentally different thing to say that they would be in contempt for exercising free speech. Speech is not really free if it brings with it a legal contempt sanction.

If I am told I have a right to stand up on the corner out here and make a speech on any subject I want, but I am going to be in contempt in court and perhaps be fined civilly or criminally, then I would say that my free speech right has been severely diluted.

Mr. ROMANO. Well, this agreement, which was signed by members of that executive board and the union itself as a legal entity, committed them to agreeing to the amendment of the constitution right now.

Senator NUNN. But the union itself, through those executive leaders, does not have the right legally under their own constitution to change that constitution. It seems to me only the delegates to the convention or the membership can amend the teamster constitution.

So they really have taken a step legally that it seems to me that they can ask the members to ratify it, but I don't see how they can amend their own constitution just by an agreement with the Government.

Mr. ROMANO. I think that is the legal issue that a judge would have to decide if there were a challenge.

Senator NUNN. That is why you want the membership to ratify it, obviously.

Mr. ROMANO. Exactly. As lawyers, we want to minimize the possible adverse consequences.

Senator NUNN. Well, I agree with all of that up to a point, but when you talk about going back to court, I agree with that. I think, certainly, that would make sense. But when you talk about holding the union itself in contempt if, for instance, the membership has overruled its own leadership, it seems to me that is very hard to put together legally.

Mr. ROMANO. Well, this may be highly theoretical and hypothetical and premature, and we hope and trust that that time will never come to pass.

Senator NUNN. But you would say that contempt would be one of the options you would consider?

Mr. ROMANO. Yes, of course.

Senator NUNN. But you would not have to have contempt in order to go back to court and basically say to the court, look, we anticipated this to be ratified, it hasn't been ratified, therefore we have to seek additional remedies.

Mr. ROMANO. That is correct.

Senator NUNN. Contempt is not necessarily a prerequisite to that?

Mr. ROMANO. That is correct. We can seek the enforcement of the agreement. We could restore the case to the trial calendar.

Senator NUNN. If you did pursue contempt, who would be in contempt? Would it be the—let us say Mr. McCarthy gets up and makes a speech saying I think we ought to go along with this; we agreed to it in good faith; I am bound by it myself and I hope the membership will ratify it. And the membership votes 99 percent to 1 percent against Mr. McCarthy's recommendation. Who do you hold in contempt, then?

Mr. ROMANO. I think under those circumstances, no one. I think, however, the persons who signed this agreement are bound in a sense to——

Senator NUNN. Because they are parties?

Mr. ROMANO. That is correct.

Senator NUNN. If they were to go out and exercise their free speech and advocate against this, then you think that there would be a serious question as to whether they had breached their own agreement, right?

Mr. ROMANO. The union as a legal entity might be in contempt if ultimately that agreement were voted down. However, as I said, this is highly theoretical.

Senator NUNN. I would think you would want to examine that theory very carefully before you pursued it, although I would certainly agree that you would have every right to go back into court and seek whatever remedy you could.

Mr. ROMANO. I mean, this is very interesting. We could proceed in small steps. I mean, I can envision a situation where if everyone who signed this agreement and all the parties to this agreement advocated in favor of the adoption of the amendments vigorously and they were voted down and we went to court and sought an order seeking to have the question presented to the union members again or seeking to have the other steps taken—and there are many steps that we could possibly follow before seeking contempt sanctions.

Senator NUNN. Right, right. Looking at this in a broader context, civil RICO, you believe, is a very powerful tool, do you not, in basically cleaning up corruption in labor unions and business organizations?

Mr. ROMANO. Oh, yes.

Senator NUNN. Do you believe we have just seen the beginning of the use of this tool? In other words, are we going to see a very——

Mr. ROMANO. I would say that so far many of these cases have followed on the heels of largely successful criminal prosecutions, and I would say that there will be more civil RICOs in the future. I think we are really at the beginning of this new phase.

I think many of the questions posed by you, Mr. Chairman, and Senator Kohl, I believe, concerning the efficacy of these remedies—I think it may be a little early in our experience to evaluate whether and under what circumstances these remedies might work. I think it is fair to raise these questions right now, but I think we are in the very earliest of stages.

Senator NUNN. If you had not had civil RICO, what would have been the alternative procedures to deal with this Teamsters situation that you have described?

Mr. ROMANO. There would have been no way that I could think of, easily think of, that would have afforded us the broad-based relief that we think we needed in order to achieve systematic reform.

Senator NUNN. In other words, if——

Mr. ROMANO. Criminal convictions operate in personam against an individual. We have amassed a pretty good record in that area over the last 30 years and it has not brought about anything that approaches reform.

Senator NUNN. In other words, you can keep putting the president of the International Brotherhood of Teamsters in jail and it doesn't change the basic operation or procedures?

Mr. ROMANO. That is right, and I might add that even though the election procedures technically conform to the requirements of the labor laws, because of the underlying level of coercion, bribery, corruption, threats and violence, the technical compliance does not assure us that we are going to be having a union that is truly representative of the will of its members. So I think in a sense the Teamsters case represents the best use of the RICO statute.

Senator NUNN. Do you believe this is a better result to leave the union leaders chosen by the delegates, and so forth, in control and in power here, with oversight by an administrator and an investigative group—a better solution than a trusteeship?

Mr. ROMANO. Let me just correct something in the question. It is more than oversight. The administrator and the investigations officer can examine all the records available to them.

Senator NUNN. They have subpoena power?

Mr. ROMANO. They will have subpoena power. The union is required to open its books and records.

Senator NUNN. So there is a considerable amount of power, but it is not called a trusteeship?

Mr. ROMANO. It is not called a trusteeship, but it is exercising trusteeship-like powers in a strategic fashion.

Senator NUNN. But over corruption and not over rank-and-file type issues?

Mr. ROMANO. That is correct.

Senator NUNN. Not over labor issues, per se?

Mr. ROMANO. That is correct, and the——

Senator NUNN. So that is the fundamental distinction. You would say they have just as much power in terms of——

Mr. ROMANO. In the area of discipline, no question.

Senator NUNN. In the area of discipline.

Mr. ROMANO. In the area of elections, conducting elections and ensuring a fair and free election, the election officer has as much power as a trustee. But there remains in place in the union an entity that runs the day-to-day business of the union, and we think——

Senator NUNN. In some ways, that is better, is it not?

Mr. ROMANO. We think it is. It certainly minimizes the perception of a Government takeover of the union, and in that sense we have a leg up on making this succeed. And it also enlists the aid of the current elected representatives of the union. They are on record; they have signed this document. It would be very difficult for them to subvert the objectives that we are trying to achieve by the settlement.

Senator NUNN. Did you hear anything here this morning from either of the witnesses, Mr. McCarthy or Mr. Grady, that you believe subverts the intent of the document?

Mr. ROMANO. No. What I heard was an on-the-record commitment to work to support the agreement, with the possible question concerning subject to later exercise of First Amendment rights, which is something we may have to resolve at a later time.

Senator NUNN. If you were bringing another such case or advising someone else in the Department of Justice about bringing this kind of case, realizing the power—and I am sure you acknowledge that civil RICO is a very, very powerful tool, almost unprecedented power in the hands of Government—would you advise that it ought to be used very cautiously? Do you think it should be used more frequently? Do you have any general rule of thumb that you would give advice to or use yourself as to when it would be appropriate to use this powerful remedy?

Mr. ROMANO. We agree with the general statements that have been made by Committee members, including yourself, that it represents an extraordinary weapon and ought to be used very sparingly, and I think we have done that at the Department of Justice.

It is difficult to say whether it should be used more frequently or not because we still are, in effect, collecting data on the usefulness and success—the usefulness of the civil RICO remedies that we have successfully obtained up to now.

What I think we look for and what you ought to look for before you consider such drastic relief is the sort of systemic corruption that you find in a union like the IBT. It is in those circumstances that most graphically illustrate the weaknesses of the criminal approach to the problem, although that is certainly a necessary component.

And where you can identify individual criminal conduct, it should be investigated and punished severely. But where it has gone on for so many years and it has become so much a part of the fabric of the organization that you are dealing with, civil RICO represents a drastic, but nonetheless often necessary solution.

Senator NUNN. Would you believe that it would be appropriate in a case where the membership themselves had not yet addressed a situation—for instance, a pattern of corruption by union leaders in a particular union that was clear, criminal convictions that were clear, non-removal of officials who had been, for instance, convicted of Taft-Hartley violations that was clear, and yet an election that had not come—let us say an election coming in a year by the membership.

Do you think as a general rule the membership themselves should be allowed to at least be given a chance to clean it up first?

Mr. ROMANO. Well, the assumption is that the election—despite this short but identifiable history of corruption, the election will be conducted freely and fairly.

Senator NUNN. Yes.

Mr. ROMANO. On the assumption that the election will be conducted freely and fairly, and by that we mean to include that if there is viable opposition it is not afraid of surfacing—if that can be built into the question, I think the answer is probably yes.

Senator NUNN. I know this is a difficult area and everyone is going to have to sort it out, but I think we are going to have an interesting kind of debate about how far it should go.

The part about denying attorneys' fees seems to me to be something the Justice Department should address. I would like you to address that in terms of looking at other precedents. I know there are other areas where attorneys' fees are denied, but it seems to me that when individuals are in a position of being placed into trusteeship and are sued, even if certain allegations are made against them personally, at the outset to totally deny attorneys' fees or to put them on notice they may be denied attorneys' fees really does have a very powerful effect on the litigation itself.

Mr. ROMANO. I am glad, Mr. Chairman, you raised it because I think I gave you the wrong citation, and if it is important I can correct it. The *Morrissey* case is at 526 F 2d 121, and it is a Second Circuit case.

Senator NUNN. I would have been looking at the wrong books all afternoon. I am glad you did that.

Mr. ROMANO. It is my understanding after consulting with some of the staff people and members of our department that the Committee will be hearing more on the issue from our representatives from our Criminal Division on the question of attorneys' fees.

Senator NUNN. Right.

Mr. ROMANO. I should just make one point about it, however. We do not deny attorneys' fees. The question is whether union funds can be used to make these payments and the cases have said thus far that under the labor laws, a union official is a trustee and has a fiduciary obligation and that the union cannot be forced to pay fees because of misconduct by a fiduciary until all the charges are resolved.

Senator NUNN. It is one thing not to force them to pay the fees. It is another thing to pursue a remedy of denying the union the right to pay those fees if they themselves choose to. It seems to me that is two different things.

Mr. ROMANO. I agree.

Senator NUNN. I certainly agree they shouldn't be forced to pay the fees.

Mr. ROMANO. I agree, and I think it is something that the Department——

Senator NUNN. But when the Government goes in at the very outset seeking denial of fees, notwithstanding what the union may themselves want to do, that is a different twist on it.

Mr. ROMANO. I agree, and I think it is something that the Department will, I know, give a lot of attention to and a lot of consideration.

Senator NUNN. I think we all have to think through it. I think the points there are not completely clear.

Mr. Romano, the original Government suit asked for resignations of certain IBT officers. As a result of this suit and consent judgment, how many IBT officers have resigned and how many of those whose resignations were sought remained in office?

Mr. ROMANO. Of the original 18, four have resigned, one is on unpaid leave of absence. One, Mr. Presser, has passed away, and 12 remain and, as I said earlier, are subject to the disciplinary procedures and powers conferred upon the investigations officer and the administrator under this agreement.

Senator NUNN. Now, you made certain settlements independent of the overall settlement with individual members of the board and vice presidents, and so forth. Could you explain how that worked?

Mr. ROMANO. During the course of the pre-trial period, several of the then defendants, vice presidents, agreed to support the principles of the action—that is, the relief that the Government was seeking—in exchange for which, after reviewing our own evidence in the case and evaluating our likelihood of success ultimately at trial, we entered into stipulations of discontinuance with those individuals.

They agreed as part of those stipulations to support the principles of our action, including much of the relief that we were seeking, at least in general; not the specifics, but in general. And we were convinced on an individual basis that that was sufficient for the Government's part.

Senator NUNN. Well, at that stage when you made those individual agreements, was the Government still pursuing the removal of the other people who were in a position of trust?

Mr. ROMANO. Well, we were pursuing them in the sense that I described earlier. It was something that we were seeking as ultimate relief following a trial on the merits. If we could establish that these individuals had engaged in acts of racketeering or acts which further racketeering, it was relief that we were seeking. Yes, we were pursuing in that sense.

Senator NUNN. Well, when certain individuals were released, were they then signing up for the other individuals to be removed? In other words, the Government was seeking removal of "xyz." "X" comes in and makes a deal with the Government, Mr. X, that he will support the Government's general theory, in exchange for the Government not removing him. Does that mean he is then signing up with the Government for the removal of everyone else?

Mr. ROMANO. He is signing up for being subject to whatever relief ultimately is entered in the action. So in this case, those officials who entered into separate settlement agreements with the

Government will be subject to whatever the sanctions or authority of the administrator and investigations officer——

Senator NUNN. So they are subjecting themselves to the same liability that the others have?

Mr. ROMANO. Exactly, exactly.

Senator NUNN. Whether it was removal or not, or what were they getting?

Mr. ROMANO. Well, whatever other relief, they are agreeing to be bound by the understanding that the constitution is amended immediately. They are agreeing to subject themselves to the authority of the court. They are agreeing to subject themselves to the authority of the investigations officer and the administrator. In other words, they are agreeing to the ultimate relief granted in the case, as the others.

Senator NUNN. What was the quid pro quo? In exchange for them agreeing to that, what were they getting?

Mr. ROMANO. The action against them was dismissed.

Senator NUNN. But you were still seeking the removal of certain officials at that stage?

Mr. ROMANO. At that stage, yes.

Senator NUNN. Were they getting an agreement that they would not be removed if that indeed was part of the final decree?

Mr. ROMANO. Can I have just one moment?

Senator NUNN. Sure.

Mr. ROMANO. The defendants who settled separately would not have been removed, although they would have been subject to the authority of the administrator and the investigations officers. And at that point, we were still seeking the removal ultimately of the remaining defendants.

Senator NUNN. I am just trying to figure what they got out of it.

Mr. ROMANO. They got the assurance that ultimately, whatever relief is granted insofar as it concerns removal, they would not be subject to that.

Senator NUNN. Not be subject to removal. Anything else they got out of it? Were there any other points where they would be treated differently from the final outcome?

Mr. ROMANO. No, not as to those individuals.

Senator NUNN. So that was the main incentive, then, right, for them to——

Mr. ROMANO. I would expect that that would have been one of the items on their list, yes.

Senator NUNN. Did they get attorneys' fees at that point? Did their attorneys get paid out of union funds?

Mr. ROMANO. We withdrew our objection to the union paying their attorneys' fees.

Senator NUNN. So that would have been another incentive, at least for the attorneys?

Mr. ROMANO. I assume, yes.

Senator NUNN. Any other incentives that you think about?

Mr. ROMANO. No.

Senator NUNN. Let me just ask you, Mr. Romano, how many people were in that category. Were there several that were——

Mr. ROMANO. Three.

Senator NUNN. Three?

Mr. ROMANO. Yes.

Senator NUNN. As you view it, if you listed the two or three most significant parts of this agreement, how would you rank them from the Government point of view?

Mr. ROMANO. I would have to lead off with the reform of the election system. It is far and away the most significant remedial step that the Government could have taken in this action. It forever, we think, puts in place protections and procedures that we think will ensure a fair election.

That, of course, is in conjunction with the appointment of the elections officer.

I guess the second most significant feature is the appointment of the administrator and investigations officer, who will be present beyond the period of the next election and who can continue to process to adjudication all disciplinary proceedings so long as they are begun by the late 1992 period when the election will be certified.

It is a sufficient length of time, we think, and we hope, to handle all of the existing and known and developed allegations of misconduct on the part of the Teamsters. I think the union members will see a visible presence that will continue beyond the next election.

I would say that the election reforms and the appointment of the two court officers that I just mentioned are the two most significant changes.

Senator NUNN. Who appoints the administrator and the investigative officer and the election officer?

Mr. ROMANO. All three are appointed by the district court judge from a list to be jointly proposed by the Government and by the International.

Senator NUNN. So, actually, both the Government and International have a veto power of who is on that list, is that right?

Mr. ROMANO. I must say that we have already met and discussed the matter and we have begun a very constructive dialogue on the types of individuals we are looking for.

Senator NUNN. Have you got a time frame for those appointments?

Mr. ROMANO. Yes, we do. I think we have to submit the list to the judge next week.

Senator NUNN. And who pays for those people?

Mr. ROMANO. They are paid from union funds.

Senator NUNN. How much staff are they allowed? Is that provided for in the agreement?

Mr. ROMANO. Only in the general sense that they are allowed to have sufficient staff to fully carry on their work. We expect that at least in the initial period that staff may be very substantial.

Senator NUNN. Do you believe there is going to be any problem in getting the necessary number of people hired and having the union pay for them?

Mr. ROMANO. I don't, and in any event if we did encounter any difficulty, at least from the union side, Judge Edelstein has retained jurisdiction over the case and if we can't agree on the numbers of staff positions that are going to be funded by the union, we could always return to Judge Edelstein and see if he could resolve it.

Senator NUNN. Mr. Romano, in terms of Teamsters officials refusing to cooperate or invoking the Fifth Amendment, do you have any general number of those that didn't cooperate in this overall investigation?

Mr. ROMANO. In terms of invoking the Fifth Amendment, there were, I believe, two dozen Teamster officials who invoked the Fifth Amendment in this—during the pre-trail proceedings in this litigation.

Senator NUNN. Were they local officials, mainly?

Mr. ROMANO. Yes, they were. Three were international officers and the remaining were local officials.

Senator NUNN. Three of them were international officers?

Mr. ROMANO. Yes.

Senator NUNN. Could you give us a list of those, please, or is that——

Mr. ROMANO. I would have to provide them at some other time, but, yes. I don't have them with me right now.

Senator NUNN. Is that confidential? If it is, we will seal it.

Mr. ROMANO. I am sorry, Mr. Chairman?

Senator NUNN. If it is confidential, we will seal it.

Mr. ROMANO. It is not confidential. I just wanted to clarify that they were not international board members, but they held international office.

Senator NUNN. What is the distinction?

Mr. ROMANO. Well, there are organizers, representatives, area conference directors that are appointed by the president that are considered international office positions.

Senator NUNN. But not board members?

Mr. ROMANO. But not a member of the 18-member general executive board.

Senator NUNN. Mr. Romano, did the Organized Crime Section of the Justice Department assist in the preparation of this suit?

Mr. ROMANO. Yes, they did.

Senator NUNN. Were they helpful?

Mr. ROMANO. They were involved from the very beginning and were very helpful. In fact, one of the attorneys from the Organized Crime Section became so helpful that we decided to hire him and he is now an Assistant United States Attorney in the Southern District of New York.

Senator NUNN. Do you want to give us your opinion on the recent moves to abolish the strike forces and put them under the district attorneys?

Mr. ROMANO. I have been asked that question before and I am in the uniquely unqualified position to render an opinion because since 1977 the strike force has been merged in the Southern District of New York, and it may be a function of our unique circumstance in New York that for us it works better all in one office, and I can't even begin to speak for the experience for the rest of the offices around the country.

Senator NUNN. Your office also worked on some trusteeship cases, such as the Fulton Fish Market. Do you feel that trusteeships already in operation are succeeding in rooting out corruption and organized criminal influence?

Mr. ROMANO. I must say that the Fulton Fish Market case—we have been in place for only a year and the Fulton Fish Market and the corruption uncovered in that case existed for decades. I think it is very early to evaluate whether we have been successful there.

Umberto's Clam Bar, which is a famous restaurant in Little Italy, is in a form of trusteeship, receivership, and I am told that it is functioning quite well. And in that circumstance, it probably was the only way we could ensure that the restaurant was not having its proceeds skimmed for organized crime purposes.

So I could say with some degree of confidence that it is successful in the Umberto's Clam Bar situation, but I think it is far too early to evaluate the Fulton Fish Market experience.

Senator NUNN. Would you envision using this civil RICO trusteeship or other types of remedies that you pursued here in other matters—for instance, a brokerage house or a financial institution that may have been involved in money laundering or other criminal activity—for instance, security and fraud violations?

Mr. ROMANO. We have rarely, if ever, encountered a circumstance where a reputable commercial establishment is so rife with corruption that an extraordinary remedy such as a civil RICO remedy, whether it be by court-appointed trustee or court liaison officer or administrator—but it is something that obviously cannot be ruled out because every day we—especially as we do more sophisticated white collar crime investigations, more sophisticated financial crime investigations, we are encountering banks, for example, that have been so deeply involved in the drug trade that it is certainly an option that we cannot rule out or flatly prohibit.

Senator NUNN. I am going to ask the Justice Department officials at a later point and you can certainly give us your opinion on this, if you would furnish it for the record. Without trying to restrict yourself to one or two or three different criteria that relate to when you would seek civil RICO, if you could give us your general rule of thumb, furnish that for the record, as to how you view it and when you would use it now in a hypothetical way.

Mr. ROMANO. Do you want that now?

Senator NUNN. If you could furnish it for the record.

Mr. ROMANO. Sure. It is a very difficult standard to articulate, except, as I indicated earlier, we think it should be available as an option. Obviously, it applies in all circumstances to legitimate enterprises; that is to say, an entity that is an otherwise lawful entity.

And the kinds of things that we look for before we consider the civil RICO approach is a history of systemic corruption where the normal mechanisms within the institution cannot with any confidence be relied upon. That is most easily documented and demonstrated when there have been a series of criminal prosecutions which have focused on one or another aspect of this entity.

Having said that, I cannot tell you with any more precision how many more RICOs we could envision bringing. I know that——

Senator NUNN. I am not looking for a number or anything of that nature, but rather the general criteria.

Mr. ROMANO. The Department of Justice will submit in writing its thoughts on the subject of what criteria it applies in the civil RICO context, I am told.

Senator NUNN. Well, one is for sure. The more you bring, the more activity there is going to be to repeal this statute, and therefore the more important it is going to be to know in advance what the criteria is for Congress as we debate this.

I personally think there is a place for this kind of action, but I think it has to be handled with extreme care and sensitivity and caution.

Mr. ROMANO. No question about it. I also think it is important for the Congress and for the public to recognize the distinction between our use—that is, the Government's use of civil RICO, and the vast use——

Senator NUNN. Private suits.

Mr. ROMANO [continuing]. Of RICO in the private litigation context.

Senator NUNN. Right, right.

At page 12 of the consent judgment, benefit funds subject to ERISA are specifically excepted from the authority of the investigations officer to perform audits on books and records of IBT entities. Could you tell us why these funds are exempted?

Mr. ROMANO. Well, these are separate legal entities and they were not a part of our lawsuit. They are also subject—the largest fund in the case of the Teamsters is under an existing court order. The Central States Fund is under an existing court order appointing a court supervisor.

Senator NUNN. I think the Health and Welfare Fund is under a different procedure, isn't it?

Mr. ROMANO. That is correct, and it is for those two reasons that they are exempt from this agreement. They were not sued, and that is the primary reason, and as a practical matter——

Senator NUNN. They weren't part of the original suit. Therefore, they weren't part of the settlement?

Mr. ROMANO. That is correct.

Senator NUNN. It was not something you dropped as you went along?

Mr. ROMANO. That is correct

Senator NUNN. What, if any, interaction will the officials appointed by the court under this consent judgment have with the Teamsters Central State Pension and Welfare Funds which are already operating under judicially-monitored consent decrees? What is going to be the interrelationship?

Mr. ROMANO. I would expect—although I think it may be difficult to predict, I would expect that the administrator and the investigations officer will, to the extent appropriate, attempt to collaborate and share information with the court-appointed officer who is supervising the pension fund.

The administrator under the agreement has authority over the—although it cannot regulate the fund itself, can impose discipline upon those members of the union who serve as trustee of the pension fund. So to that extent, the administrator under this agreement can influence the operation of the pension fund because of the administrator's authority to impose discipline directly on members who happen to be trustees.

Senator **Nunn**. As I read the consent decree on page 7, the administrator is given the authority to create trustees to run the affairs of IBT-affiliated entities, including IBT locals. Is that correct?

Mr. **Romano**. That is correct.

Senator **Nunn**. How would these trusteeships differ from the trusteeships that the Government seeks to impose under the RICO statute?

Mr. **Romano**. There is a procedure described in the agreement. The union is given the opportunity to take action under its constitution and impose a trustee, and if the administrator is dissatisfied with the action or lack thereof by the union president, it can then impose a trustee.

Once the imposition of the trustee—once the trustee is imposed, it operates like any other trustee. It runs the day-to-day affairs of the local.

Senator **Nunn**. But it would be under the constitution of the Teamsters themselves rather than under the——

Mr. **Romano**. That is correct. It is using the powers that have existed for years but were never exercised.

Senator **Nunn**. Once it is installed, the trusteeship of the local, under this administrative authority which, as I understand it, is under the Teamsters existing constitution, which they could have done anyway——

Mr. **Romano**. That is correct.

Senator **Nunn**. What would be the difference in powers of that trustee and the power that would be under a court-administered trustee?

Mr. **Romano**. Well, it varies from court order to court order, but the powers of a trustee under the constitution would presumably include disciplinary authority for infractions beyond criminal infractions.

It might—for example, there is a provision in the IBT constitution that makes it a disciplinary offense to engage in conduct bringing reproach upon the union. That offense can include both conduct which is criminal in nature and conduct which is a violation of the duties of a member of a union. It could include a failure to cooperate with investigators or court-authorized officers. That could bring reproach upon the union.

So we think that the trusteeship authority under the constitution may be considerably broader than in most trustees that result from a court order.

Senator **Nunn**. Any other comments you would like to make this morning? Any other suggestions to us from the point of view of legislation, corrections, additions, and so forth?

Mr. **Romano**. No. I want to thank the Chairman and members of the Committee for giving me the opportunity to address the Committee on what we consider very important litigation and one we have high hopes for.

Senator **Nunn**. Well, I commend you and your team for putting together this unprecedented agreement, and I also commend Mr. McCarthy and Mr. Grady for, under a considerable amount of doubt, entering into this agreement, which seems to me from the point of view of the rank-and-file membership is going to be—whatever the problems that are encountered, and I am sure there will be some, is going to be much better than several years of litigation which was inevitable.

So it seems to me that whatever problems—and there are going to be some, without any doubt—are going to be less problems than would have occurred with continuous litigation with one of the largest and most important unions in the country representing millions of hard-working Americans.

So I commend you and your team, and also the other witnesses who have appeared here this morning and the people who finally decided to make this settlement. That doesn't mean I don't see any problems. Obviously, I do see some, but I think the parties are going to be better served by having moved in this direction.

We will have another hearing on Thursday, April 6, at 9 a.m. At that time, we will hear from Mr. Anthony Giliberti, former Vice President, Teamster Local 814, Long Island, New York.

And we will have a panel of trustees. We will have Mr. Edwin Stier, Teamster Local 560; Mr. Arthur Eisenberg, Teamster Local 814; Mr. Eugene Anderson, Laborers International Union of North America, Local 6A; Mr. Brian Carroll of the Fulton Fish Market; and Mr. Robert Welsh of Local 30/30B.

So we will continue these hearings then, and I thank all the witnesses who have appeared here this morning. Thank you.

[Whereupon, at 1:04 p.m., the Subcommittee was adjourned.]

FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS UNDER THE RICO STATUTE

THURSDAY, APRIL 6, 1989

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:04 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn (Chairman of the Subcommittee) presiding.

Present: Senators Nunn, Kohl, and Lieberman.

Staff Present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Harriet McFaul, Counsel; Alan Edelman, Counsel; Kim Wherry, Counsel; Leonard A. Willis, Investigator; Richard A. Dill, Detailee/FBI; Declan Cashman, Staff Assistant; Marilyn Munson, Secretary; Daniel F. Rinzel, Minority Chief Counsel; Stephen Levin, Minority Counsel; Robert Harris (Senator Glenn); Steven Ryan (Senator Glenn); Aaron Bayer (Senator Lieberman); Bev Anthony (Senator Kohl); and Eric Whitaker (Senator Rudman).

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. The Subommittee will come to order.

Today, we will hear from Mr. Anthony Louis Giliberti, former Vice President of Teamsters Local 814, which was placed under the supervision of a civil RICO trusteeship in 1987. During his many years with Local 814, Mr. Giliberti was a close associate of Phillip Rastelli and other members of the Bonanno La Cosa Nostra family. Mr. Giliberti can describe to us firsthand the extent to which organized crime was able to corrupt and control the operations of Local 814.

In 1982, Mr. Giliberti was shot nine times in what he believes was a mob-ordered shooting. Mr. Giliberti has never been granted immunity from prosecution and has agreed to testify before this Subcommittee without immunity.

Mr. Giliberti, for reasons of personal security, has been relocated and is now living under an assumed name in an undisclosed location in order to protect his identity. To maintain this security, he will be testifying, as those in the room can see, behind a screen. No cameras will be allowed to photograph Mr. Giliberti from the area in front of the screen.

To ensure the security of the witness, access to certain areas of the room will be restricted during the course of the testimony. I think that has already been explained to the members of the media with cameras here.

We are pleased to have Mr. Giliberti here today. Before we begin to ask questions, we will ask you to take the oath, and you can remain seated for this purpose.

Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GILIBERTI. I do.

Senator NUNN. Mr. Giliberti, as I understand it, you have previously testified before the United States District Court for the Southern District of New York. Is that correct?

TESTIMONY OF ANTHONY LOUIS GILIBERTI, FORMER VICE PRESIDENT, TEAMSTERS LOCAL 814, LONG ISLAND CITY, NY [1]

Mr. GILIBERTI. Yes, sir.

Senator NUNN. And you did so without immunity from prosecution?

Mr. GILIBERTI. Yes, sir.

Senator NUNN. It is also my understanding that you have advised our staff that you wish to appear voluntarily before this Subcommittee to give testimony on the criminal activities relating to Teamsters Local 814 of Long Island, New York.

Mr. GILIBERTI. Yes, sir.

Senator NUNN. Furthermore, I have been told that you are appearing here today without an attorney, and you have waived your right to an attorney.

Mr. GILIBERTI. True, sir. True.

Senator NUNN. Nevertheless, given the nature of your testimony and your appearance without an attorney, I feel obliged to advise you of your rights as a witness before this Subcommittee. And I know the staff has already advised you, but I want to repeat those rights so there is no question. If you have any questions, you can pose those to us.

First, you have a right not to provide any testimony which may tend to incriminate you. Do you understand that you have this right?

Mr. GILIBERTI. I do.

Senator NUNN. Secondly, you understand that if you do testify here this morning, anything you say may be used against you in other legal proceedings. Do you understand that?

Mr. GILIBERTI. I do.

Senator NUNN. Last, you have the right to consult with an attorney before answering any question or questions before the Subcommittee. Do you understand that you have that right?

Mr. GILIBERTI. I understand.

Senator NUNN. And you have not desired to have an attorney here this morning; is that correct?

Mr. GILIBERTI. Right.

Senator NUNN. So you understand these rights, and you are voluntarily willing to testify today?

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[1] See p. 167 for Mr. Giliberti's prepared statement.

Mr. **Giliberti**. Yes, sir, I understand.

Senator **Nunn**. Mr. Giliberti, we appreciate very much your cooperation and your testimony, and I know that you have a long statement which we will put in the record. We have an 11 o'clock time deadline this morning, because we have a function in the full Senate that precludes committees meeting after 11:00, and we have got five other witnesses beginning probably in about an hour, after we finish your testimony. So we appreciate your being willing to summarize your testimony, but your entire testimony will be in the record.

At this point, we would be pleased for you to present your summary testimony. Take your time. You have got some water here before you, and you can just present it in your own time frame. And we are not in any hurry. We have plenty of time to receive this summary. So you go ahead, and if you need to stop at any point, let us know.

Mr. **Giliberti**. First, good morning, gentlemen. My name is Anthony Louis Giliberti. I am former Vice President of Teamster Local 814, International Brotherhood of Teamsters.

I am reading from a condensed version of my original statement for the record. At this time, Mr. Chairman, I ask that the entire statement be placed in the record of this hearing.

Senator **Nunn**. It will be, without objection.

Mr. **Giliberti**. I would like to give you a brief background on my first involvement with La Cosa Nostra, the "mob" as we call it.

I first got involved with the mob when I was 16 years old. I was arrested for carrying a concealed weapon, a revolver. At that time, my father appealed to Mr. Frank Costello, who was second cousin to my father, at which time Mr. Costello recommended a Mr. Pete Pongatore, who was also a relation to my father. Mr. Pete Pongatore had worked for several judges in the New York court system, and so with his help I received a 3-year sentence. From the time I was 16 up until the time I was 28, which was in 1952, I was released from prison.

Upon my release from prison, I joined Teamster Local 814 as a member of the rank and file. The reason for it was my whole family were members of the Teamster Local 814. We worked for the moving and storage industry.

I would like to describe in some detail some of the things I have done during the course of my time in Local 814 as a business representative. As I describe in great detail in my written statement, during all the years that I was with Local 814, the leadership of Local 814 was directly controlled by a division of the power between the Bonannos, the Genovese, and the Gambino families. As a leader in Local 814, I was assured in my position, and so was any other business representative.

For example, during my years in Local 814, at the request of Phil Rastelli—or I should say under his orders—I and several other local officials were involved in bid-rigging, shakedowns of owners of truck companies who had slush funds, payoffs from various bosses and 5-percenters.

Senator **Nunn**. What do you call a 5-percenter?

Mr. **Giliberti**. Senator, a 5-percenter, as we had them, was people that we allowed to operate without union help, who did not pay pension and welfare, paid the men below the scale. The 5-percenters, if I may explain it to you, were a small group of owners that worked together; they bid-rigged their jobs, meaning they would bid on city, State, or Federal jobs. Each one of them would submit a bid, one higher than the other. The lowest bidder would receive the bid, and we would allow them to operate without interfering, going near the job. We allowed them to use union books that they purchased from us, that they kept what we call in the drawer, they kept them in their desks. Whenever and wherever they used non-union men, they would supply these people with the books. These people would be paid the minimum wage. There would be no pension and welfare benefits whatsoever paid on these men. We, the union officials, would receive 5 percent of that job, or whatever jobs they had done during the course of their years in business.

Senator NUNN. So as a member of the union and the union itself, what you were doing was, first of all, the bids were rigged so that they decided in advance who was going to get the bid and decided who was going to be low. Second, they hired non-union labor or labor that they paid basically the minimum wage. And, third, they had a rigged set of books that indicated they were paying them higher than that. And, fourth, the people working for them did not get health and welfare benefits.

Mr. GILIBERTI. No pension benefits whatsoever paid on these people.

Senator NUNN. No pension.

Mr. GILIBERTI. None whatsoever.

Senator NUNN. And, basically, your union, which was in business to help employees, was receiving payoffs in cooperating with employers to do harm to employees.

Mr. GILIBERTI. Yes, sir.

Senator NUNN. Thank you. Why don't you go ahead? I did not want to interrupt except to clarify that point.

Mr. GILIBERTI. In 1973, Bonanno associate Vincent Bracco became President of Local 814. At that time, I was made a trustee. As a trustee, I became more familiar and involved with the ways the officers or trustees were to shake down business and the businessmen and making money with the union.

I knew that bid-rigging has always been in Local 814 from the time I could remember going back as far as 1964, when I found out that there were 5-percenters in the bosses. Most of these bid-riggers would bid on city, State, and Federal jobs, which we allowed them the privilege of operating without interference from the union. As I said before, there would be non-union men operating, working with union books. They were not being paid pension and welfare benefits or anything else other than a minimum wage.

As for the following companies that were involved in 5-percenters, I would like to name them. They were: Dayhill, DeLuxe, Guardian, Wagner—these are all moving and storage companies—Washington Movers, Viking Movers, Schwartz, Dunright, Siskind. Besides these 5-percenters, there were a number of other companies that would pay off lump sums during the course of the year for us allowing certain jobs and certain violations of contracts go by.

Each of the above businesses was sponsored by representatives of the La Cosa Nostra; each one of them had someone that come forward to speak up in their behalf. A number of them were paying off their individual families that were representing them.

Senator NUNN. So organized crime, La Cosa Nostra, was very much a part of this?

Mr. GILIBERTI. Yes, sir, very much a part of it. There were, like I say, three families, but there were a number of other individuals that were represented by different various factions that would come whenever we had problems or whenever they had labor problems with us.

Senator NUNN. Before you dealt with a company, did you get a sign-off by somebody in La Cosa Nostra? Did they tell you who to deal with, or did you tell them who to deal with? Who was in charge?

Mr. GILIBERTI. Well, our representatives, such as our underboss, our capo, when Mr. Rastelli went to prison, he had informed me on what we call—I had worked with Mr. Rastelli for about 3 hours one day, just prior to him going into prison. He gave me a brief run-down of what he wanted me to do, and his orders were that I was to report to a Mr. Nicky Marangello. Mr. Marangello, whenever I had a problem, I would always go to him, or Mr. Bracco, we would go to Mr. Marangello. In the event anybody come to us, we would go direct to Mr. Marangello and let him know what was going on.

Senator NUNN. And who was he? Was he part of the mob?

Mr. GILIBERTI. He was an underboss.

Senator NUNN. Part of the family?

Mr. GILIBERTI. The Bonanno family.

Senator NUNN. The Bonanno family.

Mr. GILIBERTI. Yes.

Senator NUNN. So was he sort of in control, or did he just help you when you needed it?

Mr. GILIBERTI. Yes, sir. He was in control. He gave orders. He directed whatever. Whenever we were having a problem, or whenever we needed something, we would always go direct to Mr. Marangello.

Senator NUNN. So, in effect, he was controlling that local union?

Mr. GILIBERTI. He was controlling the local on behalf of Mr. Phillip Rastelli.

Senator NUNN. I will be interrupting you from time to time. Just go back to your statement. I just want to make sure we get clarifications as we go along.

Mr. GILIBERTI. When Bracco was elected president of Local 814, he and others, we had a meeting with Mr. Rastelli. The discussion we had was in reference to the payoffs, the shakedowns. Mr. Bracco informed Mr. Rastelli that he wanted to make arrangements so that all of the money that came into the union would go into a central slush fund which we had. Mr. Rastelli, in questioning Bracco, thought that it was a good idea, but in order to give an incentive to any of the agents to go out and do a shakedown, he thought it would be a good idea to give the agent or the representative a piece of the action before the money was put into a slush fund. Meaning if I went out and made $10,000, I would receive

$2,000 out of that, and the other $8,000 would be put into the slush fund.

It was a very good idea at the start, but then they made another decision; that rather than do that, they would take $2,000 apiece and then put whatever was left into the slush fund to be divided up later on.

So the reason that was done was to give us all an inspiration to go out and earn our keep to make our money. We had what we called three slush funds, three kitties, slush funds which we had. One was a Christmas fund which, when we picked up money for Christmas, we kept that aside. The other was the 5-percenters, which we picked up and we kept, kept that aside for division. Every month or so we would divide that up. Everybody would get a piece of whatever was in the slush fund. We kept an individual slush fund in which we kept a sum of money for when we had problems, legal problems, or when we wanted to go to affairs that we could not take money out of the union fund, or if and when we had any kind of problems, if we wanted to pay off fellows for doing work for us in the union, such as fire bombings and any other illegal activities that we might need, such as cutting tires on trucks and maybe once in a while smacking a guy around who gives us a hard time.

Senator NUNN. Now, why would you be fire bombing? What kind of fire bombing did you do and for what reason?

Mr. GILIBERTI. Well, during the course of our strikes in 1965 and 1968, we had non-union movers that decided they were going to work while we were out on strike. So Mr. Earl Coralluzzo, who was a member of the Genovese family, got a hold of me and talked to me in 1968, just prior to me becoming a union representative, and asked me to form a flying squad.

Senator NUNN. You called that a "firing squad"?

Mr. GILIBERTI. Flying. Flying squad. That is a squad that moves all over, a group of guys that moves all over the city.

Senator NUNN. Flying squad.

Mr. GILIBERTI. Yes, flying squad.

What we would do is we would get word—Earl would call us or one of the agents would call us—there is an outfit up here. We would go up with Molotov cocktails, you know. We would go up, and we would talk with people. You know, we would tell them what was what, and if they did not listen, we would burn their trucks up or we would cut their tires. Once in a while, we would get a guy who was a wiseguy and we would give him a few slaps. But we used the flying squad whenever we needed to stop a non-union outfit or anybody that give us a problem.

Senator NUNN. Now, when you talked about just a minute ago going out and basically making money—I do not know the word you used, but shaking people down, that kind of thing, what do you mean by that? You were talking about the money that went in the slush fund. How was that money obtained?

Mr. GILIBERTI. Well, on a number of instances, just as an illustration, West End Movers from Connecticut come into New York City. We caught them downtown in the Midtown section doing a commercial job. We tied them up. With that, he reached out to his local in Connecticut, 191, and I talked to the delegate and I told him if he wants to operate in this area, he has got to operate under our jurisdiction or he ain't operating at all.

Tony Rosetti got together with them. They made a deal. We got 10 grand for it. I gave Tony a piece of it. The other piece I took into the union. This was what I mean when I say individual shakedowns outside of it. There were a number of companies that we would catch violating the contract, and we would shake them down. They were always willing to cooperate because they did not need the problem, because we had them on legitimate excuses, reasons to stop them.

We would take that money, bring it into the union. I would get a piece of it, and we would put the balance of it in the slush fund. The slush fund would be divided up maybe every month, every 2 months, depending upon how big it got. We always laid out 11 envelopes, 12 envelopes, and the envelopes, money was put into them. Each delegate got an envelope.

Senator NUNN. Now, this was split between the top people in the union?

Mr. GILIBERTI. Yes, and the organized crime people. There was always envelopes laid out for them. There was usually three or four envelopes laid out for them people, the Genovese and the Gambino and whoever their representatives were.

Senator NUNN. Did the rank-and-file union members ever share in this?

Mr. GILIBERTI. No, sir. None of them.

Senator NUNN. This was the top people.

Mr. GILIBERTI. This is only the top people, only the officials of the union and La Cosa Nostra, the people such as Genovese and Earl Coralluzzo, who was Genovese, and Bonanno's, which was Philly Rastelli, Nicky Marangello and Joey Massina.

Senator NUNN. Did you consider yourself part of La Cosa Nostra at this point?

Mr. GILIBERTI. Yes, sir.

Senator NUNN. You were part of not only the union but also the organized crime?

Mr. GILIBERTI. Yes, I was an associate.

Senator NUNN. Did you go through the ceremony, and so forth?

Mr. GILIBERTI. No, sir. You do not go through it unless you are made, and there is a great deal of people like me on the street that were—we would represent them, but we are not made.

Senator NUNN. You were not a made man?

Mr. GILIBERTI. Not a made man, no, sir.

Senator NUNN. But you consider yourself part of the organization?

Mr. GILIBERTI. Yes, sir. You are part of it. You are not considered. You are told, like I was told, "You're with me." The same as Vinnie Bracco and everybody else. They introduce you to people to make sure that they know that you belong to them, so there is no misunderstanding later on. But they do inform you: "You belong to me. You're with me." That is how it is directed. So you are with them. So that means that you go no place, you go direct to them whenever there is any problems or anything concerning business.

Senator NUNN. All right, sir.

Mr. GILIBERTI. Charles Martelli was secretary of treasury of Local 814. He was the gentleman that was in charge of the slush funds. He kept them in his office in a file. When we would divide up, like I say, when we divided the kitty up, Philly Rastelli usually got a piece of it, Joe Massina, and so did Nicky Marangello. The kitties, as I earlier explained, was the Christmas fund, a regular monthly or bimonthly, and another one was the money that we kept in the event of legal—if we needed any legal help, we had to pay attorneys or we had to do any payoffs to any of the members, any people that we used to do fire bombings, the kind of work that they done.

Back in 1968, Earl Coralluzzo was a Genovese soldier, supposed to be a button man. He had, I told you, designated me to put a flying squad together to go out and do whatever damage, whatever problems had to be solved on the street. We did a number of fire bombings, companies that we burnt up all over the city, cut truck tires and everything else.

In around 1970—I believe it was 1979, 1974, we had a problem with a company by the name of Compass, Compass Vans. We were in the process of negotiating a contract, and a number of companies from the Bronx and from Long Island and Brooklyn—they were the other areas—requested relief from the union. They could not compete with the non-unions out in Long Island and in the upper Bronx. They requested relief, which we could not give them, we would not give them. And a number of them were attempting to back away from the union. One of them was Compass Vans.

During the time 1964, a Mr. Phil Duran, who was a business representative of Local 814, was out visiting in Long Island in the general area of Compass Vans, and he had a great deal of problems. His car was put on fire, fire bombed. When he pulled Compass Vans out, we were kind of suspicious that maybe Compass or somebody he knew done it.

I was given orders by Mr. Bracco to go over and give Phil Duran a hand on the strike out there when he pulled Compass out. When I went out there, I pulled my car up in front of Compass vans and the boss come out; the old boss come out and gave me a big hello.

He said, I would advise you not to leave your car there. I says, what? He said, I would advise you not to leave your car. I said, what do you mean? What is wrong? He says, well, you know what happened to Duran's car; you are liable to get your car burned up.

Well, I got a little nasty and told him what I thought of him, and I went back and I told Vinnie what he said—Vincent Bracco—and he said, you know, we got to give this guy a hard time. He says, we have got to do something with him.

So I says, okay, what do you want? He says, let us see. If this guy doesn't want to operate with us—he has been operating with nonunion men.

Senator NUNN. This was the boss of the company?

Mr. GILIBERTI. Yes, this was the boss of the company. So he says, well, we are going to have to settle this with this guy; maybe we can do it. I says, well, what do you want me to do? He says, go see Nicky; see if we can get someone to do a job on this trucking outfit. I says, okay.

I went to see Nicky, and Nicky Marangello, who took over after Mr. Rastelli went to prison, informed me that I should get myself a couple of boys and put them on the payroll and use them to do whatever work was necessary to protect us, at which time I hired a—I went back to Mr. Bracco, told Mr. Bracco.

Meanwhile, I found out that Mr. Phil Duran took his strike picketers off the line and put them to work in a company, and while they were off the line Compass Vans hired non-union men to do the work. So, with that, Vinnie gave me the order, burn this guy out.

I hired Ray Weans, and a fellow by the name of Chris Langufo took Mr. Weans out, showed him the layout of Compass Vans. And with that, I asked Ray Weans how much money he wanted and Mr. Weans said he wanted $2,500. I says, you are crazy. He says, no; he says, I want $2,500; it is a big job. I says, okay, I will be back to you.

Mr. Rastelli, who was still out but not going away—I went to see him and talked to him. I said, you know, this guy wants—Nicky gave me orders to hire these people. I said, I hired them; this guy wants $2,500. He says, hey, tell this guy that we get people killed for less than that.

When I went back to Ray Weans and I relayed the message, I told him, I says, hey, Ray, no way you are going to get $2,500. If you are going to do the job, you do it for—I will give you $500, and I will give the kid, Langufo, $300. So with that, he accepted it and went out and burned out Compass Vans.

You will have to excuse me, sir.

[Pause.]

Mr. GILIBERTI. In around 1976 when I had hired Ray Weans and Chris Langufo, they had did a number of jobs for us. At that time, I had had a problem with a union representative by the name of Warren Annunziato from Local 91, an independent local in Long Island, at which time he attempted to organize a company by the name of LD.

The outfit was a company that we were protecting by keeping our contract in the drawer so that if any other union attempted to organize them, they would throw the contract up and say, I am already in the process of negotiating a contract with Local 814.

And with that, they would call me just to verify the fact, but Mr. Warren Annunziato didn't believe them. So he went out and solicited them some authorization cards. Supposedly, Mr. Annunziato went to LD and told LD that he had authorization cards to represent the men of LD.

Joe Lombardi called me and told me about it. I went out to see Lombardi; I talked to Lombardi. Mr. Lombardi told me about Annunziato. I went to Annunziato, asked Annunziato what he was up to, to show me the authorization cards, which he wouldn't.

I assumed that he was looking for something, so I asked him, did he want me to talk to anybody. And with that, he told me no, and I gave him my card and told him to contact whoever he wanted, to have them get in touch with me.

We had a deal, which we shook down LD for $10,000. Right after that—after that deal was made, I got a call from Mr. Annunziato, who informed me that he had a problem with one of our delegates, a Mr. John Konavitch.

I told him that we had no delegate by the name of Konavitch, but we had a shop steward, at which time he told me he wanted to speak to me. I went to the Pan Am Hotel in Queens Boulevard, met Mr. Annunziato. He informed me that Mr. Konavitch had taken $5,000 from some friends of his from Connecticut to purchase 25,000 dresses. There would be $5,000 in advance and another $20,000 after the dresses were delivered.

It seems that Mr. Konavitch couldn't deliver. The reasons for it was they were in a warehouse, a Chelsea warehouse located on 128th Street and Broadway in New York, at which time I contacted Mr. Konavitch, contacted Mr. Bracco to try to resolve the problem, and found out that the only way they would get the dresses is if they hijacked them.

Mr. Bracco gave me orders that I should set up to get somebody for Konavitch to help him hijack the dresses, at which time I then again contacted Ray Weans, talked to Ray Weans, who said he wanted $2,000 for his end. And so I set the hijack up.

The dresses were hijacked. There was $12,000 additional paid to me, of which $2,000 went to Ray Weans, and the other $10,000 I gave to Konavitch. He handed me $500 back, telling me that he had already given $2,500 to Mr. Vincent Bracco.

Also, in 1980, John Konavitch had came to Mr. Bracco to inform Mr. Bracco that there were a number of hotels that were being put up in the city of New York; that the furniture handlers from those hotels wanted permission from Local 814 to be able to enter in without any labor problems, at which time Mr. Bracco made a deal, supposedly, for $10,000 per hotel.

One of the hotels that was—the dealing was with the Westchester Hotel up in Westchester, New York, with an Esbit Trucking Company. Mr. Esbit testified to that before the Federal district attorney. Unfortunately, Mr. Esbit died, but the facts were there. We were paid off, allowing them to operate.

The way we operated it is we allowed Joseph Bracco, Vincent's cousin, to go in with union men who were being paid below the wages to do the job. During the course of that time, Mr. Konavitch had a problem with Mr. Bracco and he was badmouthing Mr. Bracco all over the city.

He informed Mr. Willie Rodino, who was another Bonanno associate, who was shop steward in the New York Coliseum, who handled the shakedowns at New York Coliseum, and also brought money back to the Bonanno family from the New York Coliseum.

During that time—during the time prior to Mr. Massina taking over in place of Nicky Marangello, Nicky Marangello was removed from representing Local 814 in 1979. When Willie Rodino went to Mr. Joey Massina informing Mr. Massina that Vinnie was going south with this money, Massina called for a meeting at the 70th Street bar in Maspich, which was owned and operated by Joey Massina, at which time me and Willie Rodino, Carmine Rastelli, Marty Rastelli, Vincent Bracco, and Joey Massina, with Konavitch, met at the bar.

After talking to Konavitch, Joey Massina said he don't believe that Vinnie Bracco was going south with $5,000. The claim was that he was getting more than $10,000 and that Vinnie Bracco was going south with another $5,000 on every hotel. At that time, Mr. Massina didn't accept Johnny Konavitch's explanation.

Around 1979, Carmine Rastelli was having a problem. He called me to come out to Nassau Coliseum. He, Carmine Rastelli, was shop steward of the Nassau Coliseum, and he called me. He wanted to see me.

The problem over an agreement that was made by Vincent Bracco and Nicky "Glasses," Nicky Marangello. I went out to see Carmine, asked Carmine what was going on, and he told me that he was having problems with Vinnie and that Vinnie was reneging, going back on his word.

I said, what are you worried about, Carmine? All we do is go get a hold of Nicky "Glasses," bring him up and confront Vinnie Bracco. He said, to hell with him; this and this and this and that. He said, that so-and-so should have been killed with Carmine Galante. Carmine Galante was just killed only a week before. He said, that sucker, he ducked out; he must have got smart; he should have been killed with Galante. They had him set. That was the first inkling I had that any of the Rastellis were involved in the killing or involved—knew anything about the killing.

At that time, with Bracco and Johnny Konavitch, I suddenly started to find out that there was a great deal of things going on that I never realized. I never realized that there was money being made on the side and being gone south with it.

Vince Bracco and Charlie Martelli were making money on the side and putting it, and putting it in their own pockets. When I confronted Vinnie on a number of occasions, Vinnie did everything he could to upset me, to create a problem between me and Massina and between me and the Rastellis, when he knew that I realized that he was making money on the side and not splitting. Later on, I found out that Joey Massina was involved in most of this money that was being taken on the side and not split up between us.

On July 14, 1982, at 6:10 in the morning on a Wednesday, I walked out of my house, got down to my car, went to the back of my car, opened it up to put my briefcase in, when suddenly I heard noises, popping, as if it was firecrackers, and I started to feel stings hitting my legs and my body.

And I don't know, but suddenly I realized it was a hit, that I was being hit. When I turned my head, they were alongside of me, and they were shooting at me. So I threw myself to the side of my car and laid there, pretending I was dead.

When I heard the car pull off, I got up and I looked. I thought that I saw Massina. There were two heavyset men in the car. I could have sworn one of them was Joey Massina. When I realized that I was hit, I walked up and hollered to my wife as I walked up the stairs, "Get an ambulance; I am shot."

I got up the stairs and I collapsed. I wound up in the hospital and found out that I had nine bullets in me. Only by the good graces of God, my guardian angel must have been with me that day, boy. I walked away from something I could never forget as long as I live.

Senator NUNN. Just take your time. Was it at that stage you decided to cooperate with the Federal Government?

Mr. GILIBERTI. Yes, sir. The reason I started to cooperate with the Federal Government is while I was in the hospital, the police had come to me and the FBI had come to me, and I told them I didn't know nothing. I said I didn't know who shot me; I didn't want to get involved in it.

While lying in the hospital, my older brother come to me and said to me, how are you doing? I told him, I said, I don't want to get involved in that; just leave me be. He says, look, I got a message for you. I said, what is it? Carmine Rastelli—he says Carmine Rastelli and Eddie DeCamillo come to him and told him that they were moving a piano, and during the course of the time they moved the piano they broke a couple of legs, but I wasn't to worry about it because them legs have been repaired, and everything is all right, and there is nothing to worry about.

Well, I explained to my brother in some nice language what I thought of them, and he got a little excited, and I told him, I said, I don't give a damn what anybody thinks. I said, that is it, because I knew at that moment they were setting me up for another hit. They were trying to convince me that all was forgiven, and then when I come back out again, I would be all right.

But I realized—I had known a number of cases where they re-hit people that they hit before that survived. They hit them again, and I knew right then and there that they were out—they would get me again.

So I called my wife. I explained to my wife my circumstances, told her I had no choice; that it is a question of live or die. And then I called the Federal agents, and I talked to them, and they brought the Federal district attorney in, and all through the questioning they offered me immunity.

And I asked them what would happen if I went into court, and they had granted me immunity, and the Federal attorney, Doug Bemm, said, Tony, he says, when we offer you immunity, he says, it weakens your testimony against them.

I says, well, I will tell you, I don't want you to weaken it; I don't want no part of immunity. I will take what I got to take. I will not accept immunity. If I go into court, I will go in with one thing on my mind that maybe God's will—whatever happens to me will happen to me, but I will not take immunity, which I didn't.

Senator NUNN. And you testified, I believe, 12 days in the U.S. District Court, Eastern District of New York, on the activities of Local 814 and the influence of the Bonanno LCN family on that union, is that right?

Mr. GILIBERTI. I did.

Senator NUNN. And there was a conviction of Phillip Rastelli and 12 others of the LCN or the union?

Mr. GILIBERTI. There were 12—actually, 13. One gentleman pled guilty before he went into court.

Senator NUNN. Tell us a little about what happens when the LCN gets into the union. Who controls it from that stage on, and do the rank and file have anything to do with the control after that?

Mr. GILIBERTI. The rank and file has nothing to do with the control of it. As an illustration, when Mr. Vincent Bracco became president, we waited at the right moment and we brought members in that we had under our thumb that come into meetings, and we changed our bylaws so that the business agents had no control, so that Mr. Bracco had strict control over all business agents, so that if anybody run against the administration, if they won, we could laugh at them. We would give them one day's pay a month and tell them to go back to work.

We were able to control most of the companies that were under our jurisdiction by shaking them down, such as the voting machines. When the voting machines were put out, Mr. Bracco had a deal with a number of the companies for 50 cents on every machine that was put out.

There was a number of controls. For instance, Mr. Bracco would make deals to try to gain contracts for various companies, such as Joe Letto or Eagle Fans, to have them to do the voting machines.

In one instance, I had visited a barn under my jurisdiction, Certified Movers, at which Mr. Frank Morelli was vice president, and he brought me into his office and wanted to know what in hell is going on with the union. I says, what is the matter, Frank?

He says, what did I do to you people? He says, what is causing you to give me a hard time? I says, what is going on? We ain't bothering you; we are leaving you go, at which time he informed me that Mr. Bracco was trying to knock him out of the box in the contract. I said, well, who told you this? He said, this friend of mine; he is a politician; he runs it. And that was the first time I realized there was somebody involved.

On another instance, Siskind Movers—Vincent Bracco called me. He said, when you go up to see Siskind Movers, tell them not to worry; they got the contract to handle the voting machines.

I went up to see Anna Siskind and informed her of that. She was very happy. A week later, I went up, and I found out she was getting ready to do the machines. I told her I wanted to employ union people. She gave me a big argument and told me straightforward; she says, look, I am not hiring no more union men. I can't afford to pay the union.

I says, you are going to hire the union men, or you ain't going to do that. She said, I am going to do the job, and I am not going to hire the union men. She said, I am goddamned tired of you people coming up here. She says, I am paying $10,000 to a politician for doing a job, $500 apiece for the guys that are handling the machines in case there is damage. And she says, I am giving you people $2,000 every time we do the machines.

That is part of the control, I would just say, of the Cosa Nostra.

Senator NUNN. How about controlling the rank and file? Now, the rank and file are the ones who are really being penalized by these arrangements which bypass the normal union procedures, which bypass the work rules, bypass the pay, bypass the pensions, bypass the health and welfare.

How do you control the rank and file when the LCN gets involved?

Mr. GILIBERTI. It is simple. The bulk of our rank and file is kept employed. We keep a group of fellows that we steadily employ, or we try to get them work; part-timers, no. The bulk of our rank and file is employed in the moving and storage industry.

We take the isolated incidents. We got companies on the side. We are not just confined to the moving and storage; we are confined to the appliance, new furniture, security guards, and various other companies that we organize.

These companies, we do a lot of making our money on. The big moving companies, we don't interfere with them. We try to—we keep our wages up. You will find that the wages were fairly good, but by doing this, by controlling the rank and file through the companies, we can—if a man attempts to run against our administration, which we have done on a number of occasions, he might run, but I guarantee you that he won't be working too steady.

The first chance we get, we get him fired.

Senator NUNN. So if they try to run, you arrange with the company to fire them?

Mr. GILIBERTI. Well, as an illustration, one fellow tried to run, Forrest Hufnagel, a shop steward in Santini, and they told me, get him off our back; we don't want to be spending money.

I told Huf, I says, look, what do you want to run for? Oh, I am going to make it. You ain't going to make it, I says. If you make it, you are not going nowhere. You can make it, and all you are going to get is one day's pay a month from us, so what have you gained?

So when he read the bylaws and saw what we had done, he backed off.

And one kid, Fabre—he worked for Bowlingreen Movers—he run. Two months later, we had him fired for wearing a cross, a swastika, around his neck. We had him fired for that, and he found it very hard to get work.

Senator NUNN. How about getting people elected to office? Who was the president of your Local 814?

Mr. GILIBERTI. Vincent Bracco.

Senator NUNN. Now, did you have anything to do with helping him get elected?

Mr. GILIBERTI. Yes, I did.

Senator NUNN. How did you manage to help get him elected? How do you elect people like that?

Mr. GILIBERTI. Vincent Bracco was originally appointed to Local 814 the same as I was and a number of other delegates. What we tried to do was keep them from running until we get them in and groom them so that when they do run, they will be able to pick up the votes.

Mr. Bracco was a trustee in Local 814 in 1971. I come into the union as an appointee through Mr. Bracco, at which time Mr. Aiello was the president, and Earl Coralluzzo was the organizer.

We found out through Wagner Moving and Storage that they were making money hand over fist under the table and not paying us off. We got together, and we decided to put together enough evidence that we could take them up before Joe Taratolo, who was head of Joint Council 16, and force Joe to do something about it.

We found a number of places where Sal tried to sell a company, and that Sal had the bosses coming out to his house and bringing them whisky and bringing them money during the Christmas holidays.

With that, we confronted Mr. Phil Rastelli and told Phil what was going on. So we told him what we wanted to do. He said, wait a minute, back off. He said, before you make any moves, I want you to go to Earl Coralluzzo and talk to him, explain the circumstances.

Well, Vinnie said, no, you ain't, he says, because if you make a move, you are going to start a war between the families, and we don't need no war, at which time we went to Coralluzzo, explained to Coralluzzo. Coralluzzo says, I don't care what you do; just remember I got my piece of this local; it belongs to me. He says, whatever you do, you do, but I want my piece. And that was the way it was done. We got Sal Aiello to back down and get behind the dues.

When Vincent Bracco took over the union, we had the bylaws changed. Vincent Bracco was able to appoint an agent, retired. Vincent Bracco would pick up anybody off the street he wanted or we wanted—for instance, Carmine; for instance, any of these guys. They were brought in.

Tony Cantatore was brought up from the field auditors as a business agent. Tony Cantatore was with Philly Rastelli. He was moved into a position of trustee. This was done through Rastelli, through Joey Massina, through Nicky Marangello. They would give us orders who to bring in.

If they didn't have anybody, then they would tell us to pick someone we know that would go along with the program, and this was the way it was operated.

Senator NUNN. Are you familiar with—have you followed the Government's recent takeover of several local unions and the imposition of trusteeships on them?

Mr. GILIBERTI. Yes, sir.

Senator NUNN. You read about that?

Mr. GILIBERTI. Yes, sir.

Senator NUNN. Do you have an opinion on whether that can help clean up the kind of situation that you have been part of and described?

Mr. GILIBERTI. Yes, sir, it can, it can. Some of the things I could say is that one of the first things I think that any trustee should do is get into the bylaws, to check the bylaws, because the bylaws are essential.

To try to give you an illustration, Mr. Earl Coralluzzo was picked off the street, never belonged to Teamster Local 814 or any other Teamster union and, through a special appointment, was appointed to our local and was there until he disappeared in 1974.

But the bylaws are of vital importance because they change the rights of the members; they change the way the election is. And if the bylaws can be corrected—our bylaws, I can say, as of when I left there in 1982, were antiquated. When I tell you antiquated, the last time any amendments were made was in 1955. The book—the last time it was printed was in 1955.

When we took it over, when we come in, we had different proposals and amendments passed which we kept smothered. We kept them in our book. Our members do not get a copy, which legally they are supposed to get a copy. It should be enforced.

Senator NUNN. So the first thing you would do as a trustee, if you were giving him advice, at least, would be to tell him to look at the bylaws and make sure the members understand the bylaws and make the necessary changes to assure that the rank and file really do have a voice. Is that what you are saying?

Mr. GILIBERTI. Above all, but most important, I would suggest that the trustee that is brought in should be sufficiently informed of what the labor movement is about. He has to know labor law.

I would suggest a lawyer, because guys like me are gone; we are things of the past. You have to have an education to come in and be able to represent the men. With the laws the Federal Government has passed, you have to know your labor laws. You have to know what it is about to sit in negotiating a contract. You have to have feelings for the members, and you have to fight for the members.

Senator NUNN. How are they going to sort out who is honest and who is not? How are they going to handle that one?

Mr. GILIBERTI. Let us keep an ethnic group in there. Let us not keep one group, such as a bunch of Irish guys, a bunch of Jewish guys, or a bunch of Italian guys, especially Italians.

Senator NUNN. You are saying having one ethnic group in control is not healthy?

Mr. GILIBERTI. Not very healthy, because I find that they all seem to have friends, either a Dutchman or an Irishman or somebody. There is always somebody there that you can reach out for.

Senator NUNN. Have you got any other advice for a trustee who would be in charge of a local union?

Mr. GILIBERTI. Yes, I guess so, but I would have to sit and go over my—I have got a number of things at home where I live that I feel that should be done. I honestly believe that unionism, especially the Teamsters, is a great organization. All it needs is a little protection; all it needs is a little understanding.

The Government has to learn to step in there and check things out, which there isn't enough of it. They might come by because they are suspicious of something, or maybe they get some sort of evidence, but there is not enough enforcement of the Teamster bylaws, the Teamster representation.

Senator NUNN. Are you saying that the Government has got to be involved in cleaning up the Teamsters Union?

Mr. GILIBERTI. Very much so, very much so, because there are a lot out there. There is a lot of problems out there, and the rank and file is paying for it. The Government is paying for it because they are not getting what they are supposed to get.

I would like to see them cleaned up. I would like to see honest guys get in there because it is a good thing. I mean, I am not asking you to go out and get a hold of some guy that just got a ticket and say, you can't come in here, or a guy that has got a misdemeanor, or a guy that did something wrong when he was a kid.

I am saying all you got to do is check them out, groom them, find out what they are about before they come in. The rank and file know their people. The only thing is the rank and file in our union got stuck because we had problems with our original administration.

Senator NUNN. Did you follow the settlement between the International Brotherhood of Teamsters and the U.S. District Attorney in New York and the Government?

Mr. GILIBERTI. Yes.

Senator NUNN. Have you got any observations about that settlement?

Mr. GILIBERTI. Well, I would say this. I can't figure out how they intend to let the entire rank and file of the Teamsters vote for president of the International Brotherhood of Teamsters.

My honest opinion is that if I elect an official to represent me that I feel that he is qualified to be able to vote for the international vice president, I could readily appreciate it if you now decide to let the rank and file vote on the joint council, Joint Council 16.

Each council in the State has a vice president. He is one of the vice presidents of the international. I could appreciate you saying, hey, we are in a—we will let the rank and file in New York State vote for the president of Joint Council 16 or Joint Council 25.

But to let the rank and file vote for the international, it would be utter chaos and, believe me, there would be a lot of organizations getting in there that I wouldn't want to see.

Senator NUNN. You mean the rank and file won't know who they are voting for?

Mr. GILIBERTI. They won't, because it is not—you know, we all can vote for someone that we know from Oshkosh, Missouri, but I don't know. I pick up a paper and they say, hey, Joe Schwartz was involved with something. I don't follow that up. I don't go looking to find out if Mr. Schwartz was really involved in that. All I know is what I read in the paper.

I don't think our rank and file should be forced to do it. I think the international vice presidents should be picked by the delegates because if I elect a delegate, I think he should represent me.

Senator NUNN. How are you going to make sure the delegates really represent the rank and file? You were a delegate, were you not?

Mr. GILIBERTI. Yes, sir.

Senator NUNN. When you voted, did you make your own decision as a delegate?

Mr. GILIBERTI. No, sir. That is the one thing that I think——

Senator NUNN. Who told you whom to vote for?

Mr. GILIBERTI. I didn't vote for the international vice president. My president voted for the international vice president, which he was advised by Joint Council 16 who they were voting for.

See, the thing of it is, Senator——

Senator NUNN. And who told him whom to vote for?

Mr. GILIBERTI. Well, it is very simple.

Senator NUNN. Did the LCN tell the people whom to vote for, your delegates?

Mr. GILIBERTI. They know who—we would advise them who we were going to vote for, and I tell you, if we were rebels—you know, I will give you an illustration. In 1981, we had an international convention at Las Vegas. There was only one group of people, a local from Chicago, that 10 people got up and voted against the international president—only 10, and each one of them got up and said who they—and they voted.

All the rest of the Teamsters voted for the president, you understand, and they voted for the vice presidents. What should be done in their bylaws is that the individual delegate should be allowed to vote in a secret ballot vote. There should be no block vote going up.

Senator NUNN. You are saying the president of your local voted everybody else, voted the delegates?

Mr. GILIBERTI. He voted for us, and every local does the same thing. Every union does the same thing.

Senator NUNN. There is no secret ballot?

Mr. GILIBERTI. No such thing as a—you get up there and you vote against him. I guarantee you, you will have a lot of problems with your local. There is a couple of things I could say, like 803. My man made an honest mistake. He has got the biggest problem in the world now, or at least he had at that time, Bill Hagerty. Nobody would talk to him.

When I went up to talk to Mr. Hagerty, he says, what the hell are you talking to him for? I said, I don't know. The man—it was a kid, I noticed. Well, do you know what he did? And I said, I am not interested in what he did. He didn't do it deliberately. The guy made an honest mistake. It wasn't something he did—but the point of it is that they vote—you follow them, because if you get up on that floor and you say, hey, I am voting for this guy, I am voting for this, you got a problem. You got a problem because they are going to come back; you are going to get repercussions.

Senator NUNN. So you would say the fundamental problem is lack of a secret ballot?

Mr. GILIBERTI. Yes, sir, very much so. Each individual delegate should be allowed to vote his own wishes, what he thinks, make his own choice.

Senator NUNN. If it is a secret ballot, you think that would do more good than having the rank and file vote. You would have the delegates vote by secret ballot?

Mr. GILIBERTI. Yes, sir; yes, sir. Each delegate should be given a ballot or go into a voting machine and vote.

Senator NUNN. Would you advocate having a special group of delegates elected for the convention for the purpose of selecting national officers, or would you leave it where the local officials who are already elected by virtue of their office are the ones who cast the ballot?

Mr. GILIBERTI. Years ago in our bylaws, when there was a convention of any sort, we had a general meeting, and men submitted their names, and who got the highest vote would go to the conventions. In some instances, you would have aldermen go, and you would have the fellows that were elected.

But, again, that is a question—I would say I wouldn't want to pick any ordinary guy off the floor and send him up there. You get a delegate—after he is in a union a while, he learns labor law, if he wants to learn the union. Some guys are just plain dummkopfs; they never learn.

But there are a great deal of delegates that will go in and learn, take courses, labor courses, to learn what it is about, and they are sincere. But, again, the only thing I can say is that that is up to you. I would suggest that you leave that to the delegates because if a guy gets into a job, he should be able to carry some weight; he should be able to represent his people.

If he is not representing his people, the rank and file will take care of him, providing there is nobody there to stop them. Do you understand, because one of the things I find where we were able to do what we want is we had a club in Brooklyn? This club—we issued books to these people.

Senator NUNN. You did what?

Mr. GILIBERTI. We issued union books to the people. We used them on jobs. No one else would get the jobs. We would send these guys out special. When we got 100 jobs, 100 classifications to go to work that day, we would reach out for these fellows first. We always kept that group well fed and took care of.

Senator NUNN. Senator Kohl.

Senator KOHL. Thank you, Mr. Chairman.

Mr. Giliberti, are you a person who has benefited quite a bit from your life experience? Are you a person of any means today, or how would you describe your situation?

Mr. GILIBERTI. Well, I guess you would say I have benefited by it. I had a few dollars when I got shot. I gave it all up. My wife went back; she was with me. I wound up with a very good pension through the International Joint Council and my local union. I received the sum of $22,000 a year pension coming in. I had a few dollars put aside which my wife saved because I used to give her my check every week without cashing it.

Senator KOHL. So you would say that financially you have had a pretty good situation, but it has not made you an enormously wealthy person or anything else of that sort?

Mr. GILIBERTI. No, but Mr. Bracco was a fairly wealthy person.

Senator KOHL. But you are not?

Mr. GILIBERTI. No, sir.

Senator KOHL. Nothing?

Mr. GILIBERTI. Not really, not what you would—no.

Senator KOHL. So when you think about all the travail you have gone through for the benefits that have come your way, and if you had to make a choice over again, what would you do, if this were 20 years ago or 25 years ago?

Mr. GILIBERTI. Well, I will tell you, if I had a choice, I would never—I am an Italian. I love being an Italian; I respect my race. But as far as the Mafia, boy, they—I will tell you, I would be the first to help destroy them, not for me, but for what they did to other people. Not only did they hurt me, but they hurt people.

There is no honesty with these people; there is no loyalty with these people. You are just a pawn that they use and destroy when they don't need you.

Senator KOHL. You said your choices at the time that you turned yourself in to the Feds were to either be a dead man or turn yourself in. Wasn't a third choice just to go away and become a person that nobody knew and relocate yourself, or did you want to do what you are doing now, which is to help correct a bad situation? I mean, why did you turn yourself in?

Mr. GILIBERTI. Well, I was lying in bed with both of my arms in casts, my leg in a cast, and not knowing which way I was going. The question was, if I was a good fellow and went back out, they are liable to come in and kill me in the hospital or kill me when I got out.

They would never pull the hit back. Once the hit was put on me, I was—they never pull a hit back.

Senator KOHL. Okay.

Mr. GILIBERTI. And being a good fellow, I had to do the only thing I knew what to do. Now, I am very happy that I did it. I made my mind up that I would never, never go back in a million years. I wouldn't advise anybody.

Senator KOHL. Would you say that the locals across the country today, the Teamsters Union today, compared to 5 years, 10 years, 20 years ago—would you say it is a much better situation, just marginally, or not at all, in terms of its corruption?

Mr. GILIBERTI. In the only respect I could say that the Teamsters are better is there is better money in them. The Teamsters are good for the men, but as far as—where there is money to be made, there is going to be corruption.

Senator KOHL. Do you think the corruption today is as bad as it has been?

Mr. GILIBERTI. Oh, sure.

Senator KOHL. You think it is?

Mr. GILIBERTI. Sure.

Senator KOHL. Is the LCN as heavily involved in the Teamsters today?

Mr. GILIBERTI. Every place I turn, I know they have been there. I could tell you—I will give you the best illustration. I know an Irish guy that was involved with them; you know what I mean, Irish people. I know different, various races, factions, that were with them that were associates. They are not members of it; they are associates. They work on the outside of it every place you turn. The Italians are the inner circle. The only ones that could get promoted are the Italians.

Senator KOHL. So the LCN is still heavily involved in the Teamsters all across the country?

Mr. GILIBERTI. Definitely, they are definitely involved. It will take quite some time before you reach out and get them out.

Senator KOHL. I ran a business back in the Midwest that had contracts with the Teamsters and we negotiated with them, and you are saying if I thought I was negotiating with honest people, I was pretty naive?

Mr. GILIBERTI. I got news for you; there are a lot of bosses naive in their business. A lot of them get involved; they pay off. They don't know where they are—Crazy Eddie, right; you know Crazy Eddie. We got orders to go out and push him so that he could run back to his uncle, so his uncle could run to Nicky so Nicky could go and shake him down, okay?

They sent me out to Jersey, me and Tony Cantatore, to shake up a toy company so that someone could step in and say, you know, I got friends, what is happening, so he could get a payoff—they could get a payoff. Once they get you to start paying off, you are going to pay off.

It doesn't mean that you are ignorant or you are stupid because someone comes in and shakes you down, and you don't know who, while you are negotiating a contract. Years ago, they used to negotiate the contract and when the contract was ratified, send the delegates around to pick $1,000 up off of the bosses, all right? I mean, this happens.

Senator KOHL. So would the Teamsters be better off if, for a period of a decade or two, leadership was installed that clearly had no other interest except the best interests of the rank and file?

Mr. GILIBERTI. A hundred percent, I agree with you, yes.

Senator KOHL. Are you concerned that if the trusteeships only last for a year or two or three that it will wind up one way or another reverting back to what it was?

Mr. GILIBERTI. I understand that Teamster Local 814 is already reverted back to the rank and file, but yet you have a shop steward that was appointed out—at Nassau Coliseum that was appointed by Vincent Bracco that still exists as an Italian that obviously, if there is any money being made, he will—and if he makes it, if they get an opportunity, they will push him back into the spot.

Senator KOHL. So if you had a recommendation to make to the Government, would you suggest that the Government do everything it can to extend its leadership of the union for a period of time to be sure that the corruption is rooted out?

Mr. GILIBERTI. Three years, the 3 years which gives you the opportunity to familiarize yourself and know what is going on in a local. In a year's time, you cannot—I don't care where you go; you cannot find out what is going on. And the only way you are going to find out is if you have got a man in there.

Senator KOHL. But if the trustee is there for 3 years and then he is gone, I thought you just said that you would fear that after a few years it would revert to what it was.

Mr. GILIBERTI. As long as the Government kept an eye on him, meaning that if the Government went in there—there was no problem with the Government coming in and sitting down and looking over their books. There is no problem with the Government going around and questioning the people to find out what is going on.

I mean, there are plenty of people on the street who are willing to tell that there are companies running loose, violating every law on the book. When you got a company—we had a conglomerate; we had roughly 300 companies under our jurisdiction, between moving and storage, appliances, new furniture, and all. We had dress companies under us; we had security guards under us.

There is no problem with you finding out that there is companies running loose, and you want to know how these companies are running—why these companies are running loose, and everybody is paying the tab. Everybody else is paying, but there are four, five, a dozen companies maybe running loose, supposedly union and running under the cloak of unionism and still being able to survive.

Senator KOHL. Okay, I just want to ask you one last question. Did you yourself have quite a bit of cash that you walked around with from your activities?

Mr. GILIBERTI. Yes, sir, I did. I always kept a couple thousand stashed on the side and always kept a little bank account. When I went to Vegas or I went some place, I took a trip, I always had money.

Senator KOHL. And some of this money was unreported income?

Mr. GILIBERTI. No, it wasn't reported to the Government; it wasn't.

Senator KOHL. It was not reported?

Mr. GILIBERTI. Not reported.

Senator KOHL. Thank you. Thank you, Mr. Chairman.

Senator NUNN. Thank you, Senator Kohl.

Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman.

Mr. Giliberti, I am sorry that I had to miss the early parts of your testimony. I assume that you have said that, based on your experience, you think the basic idea of a trustee is a good idea?

Mr. GILIBERTI. A very good idea.

Senator LIEBERMAN. Okay, and I did come in and hear our Chairman, Senator Nunn, ask you about what a trustee would have to do to take control of a union to clean it up: You mentioned changing the bylaws.

What else would you advise a trustee to do to take adequate control of a union?

Mr. GILIBERTI. Like I say, he has to be able to sit down and negotiate contracts, for one reason. If he sits there to negotiate, he knows what it is about; he knows if there are any problems there. He would know his rank and file. Above all, we always selected our rank and file to negotiate.

Senator LIEBERMAN. What kinds of problems would he need to know about?

Mr. GILIBERTI. Well, there are a lot of problems. He would find out what management needs, their reliefs, the areas they need, and he knows——

Senator LIEBERMAN. But let me focus. What we are talking about is what would he have to do in taking over a union to root out control or influence by the LCN?

Mr. GILIBERTI. He has to keep strict control of the pension and welfare.

Senator LIEBERMAN. Pension and welfare fund?

Mr. GILIBERTI. Fund. He has to keep strict control of it, and he has to watch out, and he has to watch his field auditors. We had field auditors in there that we appointed that were out making deals on their own. They would go out, and they would go over a set of books, and they would find out that this guy owed $10,000.

Senator LIEBERMAN. To the pension fund?

Mr. GILIBERTI. Yes, so they would redo the books to show $5,000, and they would pick themselves up $2,000, $3,000 on their own, and they would make a deal. We had that with Washington Movers.

Senator LIEBERMAN. Let me ask you to look at it from the other side. If a trustee took over a union, what would the LCN try to do to retain its control of the union?

Mr. GILIBERTI. The only way they can retain its control is by holding the shop stewards, if they can keep shop stewards in control, because the next move up or two from a shop steward, usually, if a guy is smart, is up into a union position because he can get representation. He can represent anybody.

If a guy is a good shop steward and has got a good reputation, the rank and file will vote him in. The only way you can stop that—and I am going to say something—the only way—make sure the guy hasn't got a criminal record. That is number one, because if he has got a criminal record—I mean, I am not talking about some kid that got locked up and went to jail for two years when he was a kid, you know.

I am talking about a guy that has been knocking around all his life and knows what the score is and knows that if he gets the opportunity to move in that is controlled by the Mafia, he can move over and take the whole local over, because it is easy once you get one guy in there because you can always get somebody else that is hungry for a buck. And once they start getting hungry for money and they see it is easy come, they are going to back the guys that are making the money.

Senator LIEBERMAN. Based on your experience, do you think that even after a trustee took over, it would be possible for the LCN to retain influence in a union?

Mr. GILIBERTI. No, not unless they can control the delegates. The only—I have never yet—well, I have seen what happened to the Provenzano local, but you can see how strong they are in there. They were in there strong because the rank and file is full of Italians and things like that, full of guys that had favors done for them.

And there are people that do respect Rastelli, but our rank and file is assorted. We used to keep—the only reason you see any Irish guys in there now is because when the pressure started coming on, Vinnie had to pull the Irish out to make a show.

But, actually, if you go in and count, there were five Italians in the local, plus the man that handled the pension and welfare. A lot of the girls were Italian. We kept it all Italian for one reason; at least we could get the cooperation of our own people because we were all Italians.

Senator LIEBERMAN. Wouldn't it be possible, just based on what you said about the—field auditors, did you say?

Mr. GILIBERTI. Field auditors.

Senator LIEBERMAN. For the field auditors still to be controlled by the LCN even after a trustee took over?

Mr. GILIBERTI. No. How could—no way, as long as you haven't got any of their members in there. First off, they wouldn't be able to control it because people are not going to get involved in it. They back off, they back off. They might sit back and wait and see the opportunity, see who goes in there.

Senator LIEBERMAN. They would back off if the trustee took over?

Mr. GILIBERTI. Oh, sure, they would back—where are they going to go?

Senator LIEBERMAN. Yes.

Mr. GILIBERTI. There is no way for them to try to—are they going to walk in and tell a Federal representative, hey, you are going to do this and do that? They would be crazy.

Senator LIEBERMAN. But, again, a key is the welfare and pension fund because that is where a lot of the money is?

Mr. GILIBERTI. The key is the pension and welfare, but we weren't making it on the pension and welfare. We weren't—it was being made by the field auditors, which we stopped.

Senator LIEBERMAN. Right.

Mr. GILIBERTI. For one reason, we stopped it, because we didn't want anybody coming in and looking and finding things in the records. In such instances as Washington Movers, we smothered up $25,000 for him, okay? We got 12; we smothered it up.

But we were able to make it by going out and companies that weren't—they weren't reporting their men. They weren't reporting the jobs, so the jobs didn't show up on the books. So if the job doesn't show up on the book, you can't collect pension and welfare on it.

We knew the job was being done, so we said, hey, this is what you saved; this is what we got. We got out 5 percent. By the way, you know, you owe this and this and that; we want this. There was always a way that we would get additional.

Senator LIEBERMAN. Yes.

Mr. GILIBERTI. Money is always there. We had a guy paying $4,000 a year. This guy was writing his own contract. He wrote better contracts than we would write. I had a young kid; JVL, I think was his—JVL. This kid, he gave me $5,000—5, plus Christmas. Every Christmas, I got a $1,000 bonus.

He gave me seven holidays plus five sick days. I got a $25 and $50 raise for his men. The men loved me; they thought I was the best guy in the world. I got them full pension and welfare. I didn't do nothing; I let him do it. I let him give me—he gave me $5,000. I mean, I——

Senator NUNN. He wrote a better contract for the men than you?

Mr. GILIBERTI. He wrote a better contract than I would. You know, when you first organize a small company, you try to write up a good contract.

Senator LIEBERMAN. One last question, Mr. Giliberti. Again, based on your experience in the IBT, do you think there is any IBT local in the New York City area that is not either associated with or controlled by the LCN?

Mr. GILIBERTI. I would say there are a number of them that are controlled by La Cosa Nostra. There are a number of them that are controlled.

Senator LIEBERMAN. That are not or that are?

Mr. GILIBERTI. There are; there are a number of them.

Senator LIEBERMAN. But that would suggest that there are some that are not.

Mr. GILIBERTI. There are some, probably. Let me tell you something. The Dutch have it, the Germans have it, you know. Everybody has got a piece of the action. You know, it just isn't Italians. It is just that we are a little—the Italians are a little stronger, but there are a lot of locals that ethnic groups—take a few AFL-CIO—the Jewish people do pretty good over there. You make a lot of deals on them locals if you go over there, if you are not a push.

Senator LIEBERMAN. Thank you, Mr. Chairman.

Senator NUNN. Senator Kohl, do you have any other questions?

Senator KOHL. No.

Senator NUNN. Senator Lieberman, thank you.

We appreciate very much your cooperation. You have been very helpful to us, and now we are going to hear from some of the trustees who have this job that we have just been discussing. So perhaps some of your words of experience will be of benefit to them. You have been of help to the Subcommittee, and we thank you very much for your cooperation.

We are going to need to clear the room. We will take approximately a 5-minute break. We will clear all the room, and if the camera—you have already done it—can be turned now the other way, we will be back here in about 5 minutes.

[Recess.]

Senator **Nunn**. The Subcommittee will come back to order.

Our next panel of witnesses will be Mr. Edwin H. Stier, Local 560, International Brotherhood of Teamsters, Union City, New Jersey; Mr. Arthur Eisenberg, Local 814, IBT, Long Island City, New York; Mr. Eugene R. Anderson, Local 6A, Laborers International Union of North America, New York, New York; Mr. Robert E. Welsh, Jr., Local 30/30B, Roofers Union, Philadelphia, Pennsylvania; Mr. Brian Carroll, Fulton Fish Market, New York, New York.

All of these witnesses have been appointed to their positions by a Federal court pursuant to a final court order or consent judgment following the filing of a civil RICO action.

It is my understanding that Mr. Stier, Mr. Anderson, and Mr. Eisenberg are known as trustees. Mr. Welsh is titled a chief liaison officer, and Mr. Carroll is deputy administrator. Mr. Frank Wohl, administrator of the Fulton Fish Market, could not be with us today, as previously announced. I am sure Mr. Carroll will be a very capable replacement.

The members of this panel will testify as to their individual trusteeships. They will discuss the successes achieved, as well as the disappointments. Each of these judicial entities is unique, and each was fashioned to address a situation of the particular entity which was sued by the Government.

Gentlemen, we are delighted to have you with us this morning. If you would like to bring your other associates with you, we would be glad to have them. All of you who are going to testify, as you come up, if you will remain standing and let me give you the oath, we swear in all the witnesses before this Subcommittee.

Can I have you hold up your right hands? Do you swear the testimony you give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Stier**. I do.

Mr. **Eisenberg**. I do.

Mr. **Anderson**. I do.

Mr. **Carroll**. I do.

Mr. **Welsh**. I do.

Senator **Nunn**. Let the record reflect that each answered affirmatively.

I understand that each of you has submitted statements for the hearing record and, regrettably, we did not know it until yesterday afternoon, late, and it was too late to make any changes, but we have an 11 deadline imposed on all committees today because there is a bicentennial celebration or commemoration in the Senate.

So we are not going to be able to go beyond 11 a.m. For that reason, we have got a half-hour divided between five people, and each one of you deserves that much time, or more, because you are all important witnesses and have important responsibilities.

We will put your entire statements in the record, and we would ask each of you to summarize, and we would like to have some time for exchange and questions before we have to adjourn at 11 a.m. So each statement will be in the record.

We don't have a particular order. Do we have any volunteers who would like to start off this morning? Mr. Stier.

TESTIMONY OF EDWIN H. STIER, TRUSTEE, TEAMSTERS LOCAL 560, UNION CITY, NJ [1]

Mr. STIER. Good morning, Senator, members of the Committee.

Senator NUNN. Good morning.

Mr. STIER. I suppose it is appropriate for me to start, since the Local 560 trusteeship was the first such effort by the Government to attempt to turn around a condition that had existed in a Teamsters Union for approximately 30 years, a condition of continuous, unabating corruption. Successive prosecutions that reflected a pattern of racketeering in that union that was beyond the control of the Government through traditional law enforcement means. It was also either beyond the control of the membership or was a condition that satisfied some interests of the membership because they didn't seem to do anything about it.

I would also like to point out that organized labor, neither the International Brotherhood of Teamsters nor any other element of organized labor, did anything about the conditions that prevailed in Local 560 over that period of 30 years.

Finally, in 1982, the Department of Justice brought an action to seek the appointment of a trustee under the RICO Act, and after protracted litigation the trustee was appointed.

The first trustee was appointed in 1986, and remained in office for 10 months. The judge, who presided in the case determined that despite the efforts of the trustee to improve conditions, the atmosphere in the union had not changed sufficiently and decided to appoint me to replace the Trustee.

My background was in law enforcement, both Federal and State. I spent the last 5 years of my tenure in Government as Director of the New Jersey Division of Criminal Justice. Most of my career involved prosecuting organized crime and corruption in New Jersey. The judge decided that my presence might be more confrontational in dealing with the problem of racketeering and asked me if I would take the job.

I spent a month studying the situation, and developed a strategy that is outlined in my written statement. I won't go into detail on it at this point, but essentially the strategy involved three elements: the need to run the union on a day-to-day basis in a way that satisfied the interests of the membership; an effort to investigate and root out corruption that still remained in the union; and, third, to make a concerted effort to democratize the union; that is, to give the membership a sense that it was their responsibility to control the behavior of the people who hold office in the union.

I spent 20 months actually running the union on a day-to-day basis. I think I am the only trustee who has held that power. And after that 20-month period, an election was held.

In a very vigorous campaign that had three slates running against one another, a slate was elected which represented a group from the political establishment in Local 560. They have now assumed office and are running the union on a day-to-day basis. I monitor what they do but I still control the pension and welfare funds, as I had for the 20 months that I was in office.

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[1] See p. 179 for Mr. Stier's prepared statement.

That essentially is where we are today in Local 560. We are conducting a study of the trusteeship sponsored by the National Institute of Justice. The study is being conducted by the Kennedy School at Harvard University, and I am very much interested in the outcome of that study because, hopefully, it will give us some insight into where we succeeded, where we failed, why we were successful where we were, and what the essential shortcomings were of this trusteeship.

I think we are on the cutting edge, the beginning, at a very primitive stage, of our efforts to root out organized crime from influence in the labor movement. If we assess the situation today and say, it has been successful or it has been unsuccessful but this is as far as we can go in attacking organized crime in the labor movement, I think we are ultimately going to fail.

We have got to learn from our experience and move forward, hopefully, in cooperation with organized labor, because they are the key to solving the problem of corruption in the labor movement.

I don't advocate Trusteeships as the way unions ought to be run. But if no other alternative is available, to attack the problem of corruption in the labor movement then they must continue to be utilized.

Hopefully, organized labor will begin to assume its responsibilities, and if this Committee or the executive branch of Government or the Kennedy School or any other source of pressure can be brought to bear on organized labor to get it to step in and assume its rightful responsibilities, I think we will begin to see a solution to this problem.

Senator NUNN. Thank you, Mr. Stier. One question, briefly. I notice on page 7 of your testimony that Anthony Provenzano's portrait was still hanging on the wall when you arrived.

Mr. STIER. Yes.

Senator NUNN. Is it still there now?

Mr. STIER. No. One of the first things I did when I got there was to remove it. You have got to understand that in Local 560, certain taboos had evolved over 30 years of racketeer control. One of the things that you didn't do was even mention the names of the Provenzanos. They were referred to as "those people," "the people who were there before," in very guarded terms.

I felt that if we were going to begin to change the culture of Local 560, which is really what this trusteeship is all about, we were going to have to confront the Provenzanos for what they were, not labor leaders, but a bunch of racketeers who had seized and maintained control of the union.

And if I were willing to say it and take action on the basis of the values that I was trying to bring to Local 560, I felt that perhaps members of Local 560 would begin to do the same thing.

And, in fact, over a period of months when the campaign was conducted, members of Local 560 began to confront the problem of racketeering that they had not faced directly for many, many years. Not since 1965 in Local 560 had there been any kind of a political campaign against the Provenzanos or the influence of racketeering in the union.

Senator NUNN. You say on page 12 that now that the supporters of Michael Sciarra have been returned to power, the question is what has been accomplished by this lengthy and difficult process. Could you give us an answer to your question, briefly?

Mr. STIER. Well, we are not going to know the final answer to that until we see a period of time go by to see whether or not the membership holds the current executive board accountable for their performance in office. That is the essential goal that I set for myself; that is, to encourage the membership to assume their responsibility to police the people who are in office.

I think in the short term, though, the membership had the experience of going through a political campaign that most of them had never seen before. Most of them knew absolutely nothing about their rights as union members, about how to conduct a political campaign, as how to prepare literature and circulate it throughout the union.

Most of them had no knowledge of how the union and the pension and welfare funds operated. We started a newspaper that provided a great deal of information to the membership, and many of them have learned a good deal.

You have got to remember that although these people were elected to office, almost 2,000 members of the union voted against them. So there are 2,000 people in that union who are watching very carefully how they——

Senator NUNN. Two thousand out of how many?

Mr. STIER. Out of 7,600, who are watching very carefully how they perform in office. And, ultimately, I hope that those and others in the union will exercise their rights that are protected by the constitution and bylaws of the international and local union to hold them accountable.

I have met some very, very fine people in Local 560. I developed a very intimate relationship with the membership over the 20 months that I was out on picket lines, that I negotiated contracts with them, that I listened to their concerns and tried to help them in very small ways to me, but very important ways to them, to protect their rights and their interests as union members for the benefit of themselves and their families—very immediate contact that I had with them.

I met some very responsible people, and some very frightened people. I hope that the experience that they have gained, the fact that they went through a campaign, that many of them spoke out for the first time in their lives, and that nobody was murdered or beaten in the process—I hope that that gives them the courage to continue beyond the time when I am there to try to assure that they have physical and economic protection against reprisals.

NUNN. Thank you, Mr. Stier.

Senator NUNN. Mr. Anderson.

TESTIMONY OF EUGENE R. ANDERSON, TRUSTEE, LABORERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 6A, NEW YORK, NY [1]

Mr. ANDERSON. Thank you, Mr. Chairman. The cement workers' unions in New York were dominated by the Colombo family. Ralph Scopo was sentenced to 100 years in connection with a RICO criminal case, and Judge Vincent Broderick of the Southern District appointed me as trustee pursuant to a consent decree, with relatively limited powers.

I was to oversee the activities of Local 6A and the district council, and to run two elections, the first of which we had at the end of 1987; the next will be in the latter part of 1990.

To focus right down on the issues here, I would say that my trusteeship was hampered because of the very limited powers that we were given, and that was a negotiated consent decree.

In retrospect, I am not certain that I would take a job with powers as limited as those that I have, but that is hindsight, which is much better than foresight. I think it was a good arrangement; it was a good experiment.

We received, really, a rebuff from the international. I wanted to get assistance from the international to run campaigns on such things as how to instill some democracy into the union. We went from the president of the international to the general counsel, down to a lawyer on his staff, and finally decided that that was not fruitful.

We lacked funding. I think it is a good guess that the reason the trusteeship was ultimately agreed to by the union was because they ran out of money to both pay lawyers and the extravagant termination benefits that Mr. Scopo and some of the other former leaders enacted.

There is a crying need for education in union democracy in the construction trades in New York. I think the fact that we ran an election, and even though there was only one slate—it was a Russian election—I think got people involved in the process, so that I see maybe we are going to have to run a couple of Russian elections and then finally somebody will see that maybe there is an opportunity to step in.

I think that as far as my work to date, the work of Mr. DiArchangel, who has been my executive administrator, my designee, Mr. Gaynor, that we see this as a good experiment. It is too early to tell whether ultimately this will be successful.

Democracy is a tough, tough, tough thing to run, and I think that we have made some beginning, preliminary first steps. And I think I would commend the Department of Justice for having put this program into place for this union. It is a small step; I don't want to overemphasize it. I would commend Congress for having enacted the RICO laws, and this Committee for taking a look to see how the process is working.

Senator NUNN. Thank you, Mr. Anderson. We appreciate your being with us.

Mr. Carroll.

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[1] See p. 243 for Mr. Anderson's prepared statement.

TESTIMONY OF BRIAN CARROLL, TRUSTEE, FULTON FISH MARKET, NEW YORK, NY

Mr. CARROLL. Good morning, Mr. Chairman. Mr. Wohl does send his regrets.[1]

I have a short statement.

I am the assistant administrator of the Fulton Market and, as such, I act on Mr. Wohl's behalf on those occasions when he can't appear. Prior to assuming my present duties with the administrator's office, I served 20 years with the New York City Police Department, a portion of that time with the Organized Crime Control Bureau, and a portion of that time as the commanding officer of a joint Federal Bureau of Investigation-New York City Police Department probe into organized crime activity in the Fulton Market.

The end result of the investigation was the Government's conclusion that organized crime continued to control the Fulton Market and prior criminal prosecutions had not eradicated organized crime from the Market.

The United States Attorney's Office for the Southern District of New York therefore proceeded with a civil RICO action, and this complaint alleged that several groups of defendants, including the Genovese organized crime family of La Cosa Nostra and 29 other named individuals, were involved in a range of racketeering activities at the Fulton Market.

Among the broad injunctive relief sought by the Government was the appointment of an administrator to monitor the Market and enforce the civil injunctions aimed at eliminating the illegal practices that the Government claims to have supported organized crime in the Fulton Market in the past.

In April of 1988, 25 of the individual defendants entered into a consent judgment. The consenting defendants, without admitting the truth or validity of the allegations contained in the complaint, agreed to injunctions prohibiting the alleged racketeering practices and to the appointment of an administrator.

The injunctions agreed to by the consent judgment limit the involvement of certain defendants in the Market and prohibit illegal activities such as extortion, loan sharking, and gambling.

At the same time, a default judgment was entered against three defendants who failed to appear in the court action and the entire Genovese organized crime family. In addition to the identical injunctions set forth in the consent judgment, the default judgment permanently enjoins the defaulting defendants from having any involvement whatever with Local 359 or any business or entity related either directly or indirectly with the Fulton Fish Market and prohibits them from participating in any way in the seafood business anywhere. Both the consent and default judgments provide that the administrator is responsible to ensure and promote compliance with the court-ordered injunctions.

In May of 1988, Judge Thomas P. Griesa appointed Mr. Frank Wohl administrator for the Fulton Market, pursuant to the consent judgment. Thereafter, a staff was recruited and an administrator's office was operational in the fall of 1988.

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[1] See p. 259 for Mr. Wohl's prepared statement.

Since the effectiveness of the injunctions set forth in the judgment depends on a close scrutiny and continual inspection of the Market, our function not only includes monitoring and encouraging compliance with the injunctions, but also includes the authority to investigate any acts and practices in or about the Fulton Market which may violate these injunctions.

In order to carry out these duties effectively, we are empowered to take sworn testimony, inspect books and records, and to impose sanctions on individuals in violation of any term of the consent and default judgment, and to propose rules and regulations to promote compliance with these injunctions.

Based on the problems as we know them today and the support we have received, both financial and from agencies of the Federal Government, it is reasonable to assume that in the period that has been given to us, four years, we will be successful in fulfilling the mandate of the court.

Organized crime presence in the Fulton Market goes back to the 1920s and is currently still present. This is evidenced by arrests yesterday morning by the Federal Bureau of Investigation of 10 associates and members of the Bonanno L.C.N. family for loan-sharking activities in the Fulton Fish Market.

These arrests vividly illustrate the ongoing presence of organized crime in the Fulton Market and the need for an administrator's office. Armed with the broad powers granted by the court and with the continued support of federal and local government we will ultimately be successful.

Thank you.

Senator NUNN. Thank you, Mr. Carroll.

Mr. Eisenberg.

TESTIMONY OF ARTHUR EISENBERG, TRUSTEE, TEAMSTERS LOCAL 814, LONG ISLAND CITY, NY [1]

Mr. EISENBERG. Good morning, Senator, ladies and gentlemen. Just let me run through the things that I understand the Committee is interested in—what I do, how I do it, what I think of the term of the trusteeship, accomplishments, and perhaps some things that I would have liked to have done more of or better.

I think my authority is somewhere between Mr. Stier's and Mr. Anderson's. I am a tie-breaker. I practice oversight both of the union and of the benefit funds. I inherited the interim executive board, a couple of business agents, auditors, and so on.

My particular background was in labor law and I had been with the National Labor Relations Board just about all my life, first in the New York region, then in the New Jersey region, eventually being director for a number of years and, after retirement, had started an arbitration career when someone asked me, "how would you like to," and without thinking I said "yes" and here I am.

So for the past 14, 15 months, I have been the trustee at Teamsters Local 814, and you heard this morning rather vividly from Mr. Giliberti some of his experiences, and I never did talk to him. Perhaps I should have, but interestingly enough, some of the things he mentioned did come to pass, whether he is aware of it or not.

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[1] See p. 377 for Mr. Eisenberg's prepared statement.

We did replace the internal field auditors. These were the fellows who go out and check employer contributions as to whether or not jobs are reported and whether contributions are being paid. So I think that is something of an accomplishment.

We did have a CPA outside firm come in and do the auditing of the funds, the pension, welfare and annuity funds, as well as the union books, and they were found to be in good shape.

We did—when I say "we," editorial "I," plus the interim executive board—hire a full-time dispatcher who takes care of job referrals, not from the clubhouse that he Mr. Gilibertr, was talking about, and we think we have that under better control, not 100 percent, but we think jobs are being given out more or less first-in, first-out, in seniority order and without any payments to any one.

We have replaced our fund investment managers at great savings, and I think we are going to get a better job from the current managers. Also, we have hired someone to supervise the performance of the investment managers to help the trustees carry out their fiduciary responsibilities.

We started steward training, educational programs, general education classes for the members. Here, I must say it has been a little bit of a disappointment. I would have expected greater results, more people coming out. Not bad, but not anywhere near enough.

So these are programs which I have started, and we have further classes coming on and I hope that whoever takes over will continue those programs.

I, too, as Mr. Stier did, sat in on collective bargaining. We just negotiated, or concluded negotiations for the major element of the moving and storage industry thought that we had a pretty good contract. What happened? The members turned it down. You could say that is democracy in action or you could say I wonder why. I wonder why; I don't know. We are looking into it. The next step is going to be a mail ballot. If the members turn it down again, it will be a strike, or else they will tell us to go back and negotiate some more.

We have had some comments about apathy of members, lack of time; it takes a long time to turn around members' attitudes after 15, 20, 25 years or more of mob control. I fully share that view.

I just don't see how anybody, however capable and involved and committed you are, could come in a year or a year-and-a-half and really get down and convince members that a new order has dawned and that you are now free to assert your rights with impunity; that no one is going to be out there and beat your head in. I think a start has been made.

I get involved, I must tell you, in every facet of the union. I don't say this boastfully, just as a matter of that that was my approach; to help and let the members know that I am out there.

So I attend membership meetings, joint labor-management board meetings, membership council meetings, which are advisory bodies, and shop steward meetings; I get out the message, I am here; I am here to protect your rights. Everything I do is for your benefit; believe me, that is what I am here for. Some do, some don't.

I have had members come up and tell me, great job. I have had other members berate me. Who needs you? Who is watching you? Who is paying you? How do we know you are honest? It is that whole gamut.

So I can't tell you how great a job I am doing, and I can't tell you how long the job will last because I don't know how deep-seated these attitudes run and the former controls run.

We have replaced stewards. I might tell you that at one time we wanted to replace a steward and had another election. The members voted back the steward that we didn't think was doing a good job. So it is that kind of thing that a trustee or anybody who comes in and tries to "reform" an organization has to put up with or has to meet. Members can and should make their own decisions.

I personally think that the funds are in pretty good shape. I think the administrative controls are far better now. I think there is a greater openness. Members know there is somebody out there. We started a newspaper; we do communicate.

Some of the frustrations I have had is that there were personality splits between some of the appointed officers. We had an election by mail ballot recently. It turned out to be just about a 50-50 split in terms of those winning. Protests were filed. The Labor Department is looking into it. I don't know how soon they are going to come up and what result they are going to come up with, whether they will certify the results.

In that case, I am gone because there is no continuing provision in that consent judgment for a monitor, as in Mr. Stier's case, or they may rerun the election. And in that case, some members will be in office a while longer and others won't be.

If I had to summarize briefly accomplishments, I am for trusteeships for whatever limited period it takes to start the process going. I am all for unions, I am all for democracy.

I am very well aware of the conflict between the internal democratic idea of a free trade union and having an outside individual who represents another authority, the Government, come in and tell you what to do.

But in this particular situation, without being verbose again about the background that you are all familiar with, I think in the absence of control, in the absence of an effort by the Teamsters or the AFL–CIO—effort, inability, desire, or whatever—I think trusteeships are warranted.

I think RICO has played and will continue to play an important role in the hope of your Committee, the legislators, the members themselves, and the public at large that democracy return and a free spirit return, and effective unionism be developed coming from and being under control of the union members.

Thank you.

Senator NUNN. Thank you.

Mr. Welsh, we don't have much time left. I have two questions I want to pose before we get through, but why don't you go ahead?

TESTIMONY OF ROBERT E. WELSH, JR., TRUSTEE, ROOFERS LOCAL 30/30B, INTERNATIONAL ROOFERS UNION, PHILADELPHIA, PA[1]

Mr. **WELSH**. Judge Bechtle of the United States District Court appointed me only about a year ago, and he had the benefit of just about everything we have heard thus far and he did two things that are somewhat different.

Number one, despite the fact that the leadership was, in his view, closely associated with the prior leadership and was associated with their lawlessness, and despite the fact that this leadership was elected in what the judge viewed as potentially a tainted election, he left them in place.

However, he asserted plenary authority over all aspects of the union and the benefit plans. So I am in the position where I am working with the leadership, but they cannot write a check, negotiate a contract, execute a contract, or make any financial undertaking without my authority.

The difference between my form of relief and the relief in the other cases is that the responsibility is initially on the leaders and the members to comply with the legai obligations; that is, I tell the leaders that they will correct picket line violence or I will with the marshals.

Thus far, in terms of the union's relationship with the world outside, I have seen a lot of promise because the fundamental difference between the roofers union and the other unions we have heard about was its reflexive and constant use of violence to assert its rights on picket lines and, indeed, in every manner of economic and other operations.

Internal democracy remains a critical, critical problem. I can't tell you that we have made any progress. Yesterday, I filed a request with the court requesting a mail ballot, that the judge suspend the manual balloting required by the union constitution, principally because of the atmosphere of intimidation which continues.

How long will this last? I have no idea. I tell the union 5 or 10 years. It is going to be very, very long as far as I am concerned, until and unless there is some progress made in terms of internal democracy. In terms of the union's relationship with the outside world, that is going very well.

Senator **NUNN**. I am going to just ask one question, and I will invite each of you to answer it, and then I will turn to my colleagues, and then we will have to conclude.

In your opinion, have you received adequate support from the Department of Justice and the Federal law enforcement community to carry out your duties effectively? If the answer is no on that, or perhaps or maybe, then what additional assistance would you have desired or do you desire?

Let me start with Mr. Stier, and we will go in the same order we had a minute ago.

Mr. **STIER**. Institutionally, I have not. On a personal level with several key people in the Department of Justice and in the Department of Labor, I have. Institutionally, the problem is that the Department of Justice and the Department of Labor have not geared themselves to provide the kind of support that a trusteeship needs.

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[1] See p. 385 for Mr. Welsh's prepared statement.

A trusteeship is not a criminal investigation. A trusteeship is a dynamic activity that occurs in the framework of a labor union that is not fully understood by the Department of Justice and even the Department of Labor.

And the kinds of resources, the people that are provided, the kind of help that I have needed, just simply isn't there. I think that somebody has got to sit down and think beyond simply winning the case. Winning the case is a very small part of the battle.

You have got to sit down and design a strategy and provide the people and the financial support that is essential to make a trusteeship work. That isn't there at this point.

Senator NUNN. Thank you, Mr. Stier.

Mr. Anderson.

Mr. ANDERSON. Mr. Chairman, I think there is a difference between answering a question "yes, but" and "no, but," and I think that my answer is yes, but I think there could be improvement.

I think there is some tension between the Government's activities on criminal cases and the Government's assistance on civil cases. And when these turned into civil cases, I think the prosecutorial interest waned very rapidly. I can understand that.

I would urge upon the Committee consideration of some method of Government funding, continuing investigative activities in connection with these trusteeships, and I think we need some support from maybe the Department of Labor on changing the culture, getting people educated about union democracy.

Senator NUNN. Thank you, Mr. Anderson.

Mr. Carroll.

MR. CARROLL. Mr. Chairman, we don't oversee a union, our mandate covers a commercial center and specific individuals within that center. At this time, we deal mostly with New York City agencies and they have been very helpful. Of the Federal agencies we deal with, the Federal Bureau of Investigation has been excellent and remains a resource for us. The balance of the Federal agencies we have dealt with are most helpful when there is a personal contact involved. If there were a liaison designated from each agency it would save time and make our getting information easier.

Senator NUNN. Thank you.

Mr. Eisenberg.

Mr. EISENBERG. I would say me, too, and stop there, but looking backwards, I think I would have preferred a greater period of climatization and information preparation. One day, I am an arbitrator; the next day, I am a trustee. And it took a little time to develop my own approach to what the job required.

When I have had occasion to call for help on the U.S. Attorney and the Department of Labor and its elements, certainly I have received it. I think perhaps the Committee might want to look into the question of permanently assigning people or setting up some staff arrangement where you wouldn't have to go through each time and ask, I have this problem, who do you have for me—to have that structure arranged in advance.

And this brings up just one more thought. If I am there to help and if I am there to run the union and if I am there to get a message of democracy across to the members, it is a little difficult when the member begins to think, well, whatever I tell this gentleman, what is he going to do with it. He is also an investigator. Am I going to get in trouble?

So that is the kind of tension and problem that I foresee. Perhaps some type of separation between the two functions——

Senator NUNN. You think there may have to be a separation between the administrative and——

Mr. EISENBERG. Well, certainly, coordination. Somebody should be in charge, but it is a little difficult for a do-gooder—put it that way—person who is there to help the union train the union officials, do the right thing in collective bargaining, get them to involve themselves, and yet have to report on allegations of misconduct and keep his nose and eyes and ears open for continuing evidence of such improper practices, and that is what I see as a problem.

Senator NUNN. Thank you.

Mr. Welsh.

Mr. WELSH. With one exception, I have been, I think, well supported by the law enforcement and administrative establishment. The Department of Labor, for example, has spent a lot of time designing an election plan for me and with me.

The exception is in financial reviews. Despite the fact that records were subpoenaed over the years from the roofers union, as near as I can tell no one ever did anything more than check the arithmetic on the LM-2 reports filed with the Department of Labor.

As a result, the judge appointed the accounting firm of Peat Marwick to conduct a ground-up financial review. And as a result of what we found out there, we are undertaking a very comprehensive set of controls that I think should satisfy the court's concerns.

Senator NUNN. I will invite each of you to submit to us in writing any suggestions—ways of improving or things Congress should consider from your perspective—for the record.

We will also try not to burden you with questions, but we will have a few other questions for the record, if you could supply those. We could arrange an oral interview, if you would like, to save you some time after this hearing through informal interview with the staff, and we can then transcribe it, extend it to you for your verification, if you would like to do that.

I am sorry we have run out of time, but we, in fact, have.

Senator Kohl.

Senator KOHL. No questions.

Senator NUNN. Senator Lieberman.

Senator LIEBERMAN. I would ask a very brief question and only ask for a brief answer from Mr. Stier. Why do you think that the election slate associated with what I gather was the previous mob control of the union won reelection?

Mr. STIER. I hope I am going to find out precisely by the time we are done with our study of the Local 560 trusteeship, but let me tell you what I know at this point. First off, you have to understand that the slate that won does not have anybody on it who served in the former administration except for one individual who served a brief period of time as a trustee. So you are talking about individuals who were not personally involved in the administration of the union previously.

They were, however, part of a political establishment that dominated the union which was at one time controlled by the Provenzanos. They probably won for a couple of reasons. Number one, they have been campaigning, and campaigning effectively, against the trusteeship since it was imposed by the court. It gave them a platform, it gave them an issue, and it gave them something that would divert attention away from the failings of the Provenzano administration to provide proper representation of the people.

Secondly, they have an infrastructure based on shop stewards. We have something like 400 shop stewards in Local 560, and most of those shop stewards have become a part of that political establishment over the years and provided a good deal of active support. It is a machine.

Third, I think that other candidates running against them were perceived, and perhaps correctly, as weaker, less experienced, less effective, as potential leaders of the union.

I don't think—we haven't seen any signs of, let me put it that way, any of the kind of intimidation, threats, violence that were characteristic of Local 560 elections in the past.

We saw a very heated campaign, a very competitive situation in which the literature that was circulated raised all the issues that I wanted to see raised—a very dramatic change from the conditions, the political situation, the climate that existed in Local 560 at the time that I took over.

The question is whether that is going to continue and whether, if this current administration behaves in ways that are similar to the way the Provenzanos ran the union, the membership will respond by saying you are not going to represent us anymore.

Senator LIEBERMAN. Thank you.

Senator NUNN. Senator Kohl, do you have any other questions?

Senator KOHL. No.

Senator NUNN. Thank you, all of you, Mr. Stier, Mr. Anderson, Mr. Carroll, Mr. Eisenberg, Mr. Welsh. We wish we had more time. We have a lot more questions, but you have been very helpful. Your entire statements will be part of the record, and we will have others for you.

To save you some time—it depends on your schedules, but if you might informally communicate with staff now, perhaps you could give them a little bit more expansion on some of these questions we had and save some time in completing the picture. But I will leave that up to each of you. Thank you for being here, and we invite you to continue to keep in touch with us.

We will have another hearing on this same subject on Wednesday, April 12, at 9 a.m. in this room. We will then hear from Mr. Lane Kirkland, President of the AFL-CIO, and we will have a panel of Mr. Edward S.G. Dennis, Assistant Attorney General, Criminal Division, Department of Justice, and Mr. Floyd Clark, Executive Assistant Director, Federal Bureau of Investigation, as well as representatives of the Department of Labor. That will be next Wednesday morning.

The hearing is now adjourned.

[Whereupon, at 11:14 a.m., the Subcommittee was adjourned.]

FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS UNDER THE RICO STATUTE

WEDNESDAY, APRIL 12, 1989

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:05 a.m., in Room SD-342, Dirksen Senate Office Building, Hon. Sam Nunn, Chairman of the Subcommittee, presiding.

Present: Senators Nunn, Kohl, and Lieberman.

Staff Present: Eleanore J. Hill, Chief Counsel; John F. Sopko, Deputy Chief Counsel; Mary D. Robertson, Chief Clerk; Harriet McFaul, Counsel; Kim Wherry, Counsel; Leonard A. Willis, Investigator; Richard A. Dill, FBI Detailee; Declan Cashman, Staff Assistant; Daniel F. Rinzel, Minority Chief Counsel; Stephen Levin, Minority Counsel; Robert Harris (Senator Glenn); Steven Ryan (Senator Glenn); Aaron Bayer (Senator Lieberman); Bev Anthony (Senator Kohl); Bill Ritz (Senator Kohl); Eric Whitaker (Senator Rudman); Ellice Halpren Barnes (Senator Stevens); and Kim Corthell (Senator Cohen).

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. The Subcommittee will come to order.

Last week, this Subcommittee began public hearings focusing on the Government's use of the civil provisions of the RICO statute to impose trusteeships on labor unions and other business entities. This novel and unprecedented remedy is perhaps the boldest step that the Government has taken in its long-running battle against organized crime and labor racketeering.

In imposing trusteeships, the prosecutor has taken the power of RICO and the watchful eye of the Government out of the courtroom and into the day-to-day operations of labor unions in some cases. Not surprisingly, this new Government role has been met with considerable controversy and has generated some very serious questions, legitimate questions, as well as certainly some criticism which may not be as justified.

But the question is: Is this type of Government intrusion in the private sector really justified? Is a trusteeship the very antithesis of the concept of union democracy? And, finally, where trusteeships have been imposed, have they succeeded as tools against corruption and organized crime influence? And are they likely to succeed?

During last week's hearings, we raised those and other questions with the trustees and administrators who have been appointed in the five cases where the Government has successfully obtained some form of court-monitored supervision under RICO. They spoke as pioneers in this field, claiming neither success nor defeat, remaining optimistic about progress and raising new concerns about adequate support from both the Government and from organized labor.

We also had the opportunity last week to examine the recent settlement in the largest RICO suit to date: the Government case against the International Brotherhood of Teamsters. For the first time in the history of the Subcommittee, we examined an agreement between Federal law enforcement and the Teamsters where both sides committed themselves to work together to end corruption and organized crime influence in this country's largest labor union.

In testimony from both parties, it became clear that there are still many unanswered questions on how this agreement will work. Nevertheless, I am cautiously optimistic that this may be the beginning of a new and better chapter in the history of the Teamsters union.

This morning, we continue to examine both the appropriateness and the effect of the trusteeship remedy. In last week's testimony, Teamsters President William McCarthy, while endorsing the agreement in the International Brotherhood of Teamsters suit, made clear his feeling was strong that the RICO trusteeships conflict with the basic principles of union democracy and, as such, are inappropriate in the context of a labor union.

On the other hand, the trustees from the two Teamster local unions testified that while organized labor itself had consistently failed to address a corruption problem, a RICO trusteeship may be the only plausible way to ensure a return to those same principles of union democracy.

We are pleased this morning to have Lane Kirkland, President of the AFL–CIO, here to address the use of RICO trusteeships from the perspective of organized labor. I am anxious to hear from Mr. Kirkland not only as to the wisdom of this type of Government action, but also as to the willingness and ability of organized labor to address the problem of labor corruption from within.

We also are fortunate this morning to have with us representatives from those three arms of the Government which have been most closely involved in the use of RICO in this area: the Department of Justice, the Department of Labor, and the Federal Bureau of Investigation. As innovators in this area, they are uniquely qualified to tell us from their own experience how the RICO statute is changing the face of the Federal law enforcement efforts. They will also address some of the legitimate questions that have been raised during these hearings as we attempt to get a better understanding of where the RICO statute may be leading us in the future.

Our first witness today is Mr. Lane Kirkland, President of the AFL–CIO. Obviously, it is very important to hear the views of organized labor, in particular the AFL–CIO, on civil RICO and trusteeship issues. Mr. Kirkland is no stranger to this Subcommittee as he previously testified before us in 1981 on the labor-management racketeering bill, and he cooperated, his legal staff and his policy staff cooperated in the revision of several labor laws which made it much more likely that corrupt officials would be terminated from their responsible trusteeship positions at an early stage of judicial proceedings.

I would also like to thank the AFL-CIO general counsel, Larry Gold, who has been very cooperative with the Subcommittee staff in its preparation for this hearing.

Lane, we welcome you back, and if you have any of your associates you would like to join you this morning, we would be pleased to have them, if they are going to testify. We swear all the witnesses before the Subcommittee, so if you will remain standing. I do not know whether Mr. Gold will be testifying or just serving as a lawyer here.

Mr. KIRKLAND. I may deal off a question or two.

Senator NUNN. Well, we will just swear you both in. As an attorney you do not have to take the oath, but as a witness you do.

Do you swear the testimony you give before the Subcommittee will be the truth, the whole truth, and nothing but the truth?

Mr. KIRKLAND. I do.

Mr. GOLD. I do.

Senator NUNN. We are pleased to have you this morning. I know you have a prepared statement. We will be glad to have that, and then we will have questions for you.

TESTIMONY OF LANE KIRKLAND, PRESIDENT, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, ACCOMPANIED BY LAWRENCE GOLD, GENERAL COUNSEL

Mr. KIRKLAND. Thank you, Mr. Chairman.

I have with me, as you have noted, my general counsel, Lawrence Gold. I would like to submit my full statement for the record[1], and, by your leave, I will give a summary.

Senator NUNN. We will have your entire statement in the record. And I have read that statement. I found it very interesting. So we will be pleased to receive whatever summary you would like to give us this morning.

Mr. KIRKLAND. Thank you, sir.

Mr. Chairman, I am pleased to appear before this Subcommittee to present the views of the AFL-CIO on the issues raised by Government trusteeships over labor organizations.

At the outset, I wish to emphasize what I believe to be our common fundamental objective; that is, the trade union movement must be kept free of miscreants, recidivists, and corrupt influences. Organized labor cannot reach its full potential and meet its obligations to its members and to society without protection from wrongdoing trade union officers, appointees, and employees.

In this country, there are more than 50,000 labor organizations trying to make their way in a complex, competitive, and often harshly anti-union atmosphere. For some, the real world means contending with venal employers, corrupt public officials, and elements of organized crime, all of whom were on the scene before the union. The wonder is not that some labor organizations become tainted but, rather, how few are brought down by these circumstances.

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[1] See p. 395.

The AFL–CIO is well aware of these realities. We understand and accept the need for our Government to be entrusted with the full range of the police power. We see it as in our own best interest to encourage the full enforcement of the law and the full punishment of wrongdoing trade unionists. It is for that reason that the AFL–CIO supported your initiative, Mr. Chairman, to assure that those who fail their trust are debarred from union office upon conviction.

Senator NUNN. We recognize that, and we thank you for that support, too, because your support was critical in getting that legislation passed.

Mr. KIRKLAND. We do not merely suffer such vigorous and measured law enforcement; we demand it.

In so doing, however, we cannot obscure the plain and simple fact that Government power can imperil as well as secure ordered liberty. Thus, the protections of due process are as essential today as at any time in our history. The Government has and must respect its obligation to state the legal norms beforehand in reasonably clear terms, to prove in a court of law an allegation that those norms have been violated, and to do so by proof beyond a reasonable doubt.

From our perspective, then, it is right and proper to grant the Government broad police powers only if those powers are balanced by the safeguards of the rule of law. The common ground I have just mapped ends with the Government's claim that the criminal law is not sufficient to keep private organizations free from corruption by organized crime, and that the Government needs this civil law power to take over and administer such organizations.

We believe granting the Government that power is wrong as a matter of principle. Government-dominated trade unions, no matter what the excuse, are contrary to every precept of freedom of association. That freedom's office is to permit the members of each of the diverse groups in our society to join together, independent of the State, to further their interests as they themselves define those interests. Government control of a private association is thus fundamentally illegitimate in that the officials who exercise control are not drawn from, are not selected by, and are not responsible to the association's members.

So that I am not misunderstood, I hasten to add that I do not blink at the threat posed by organized crime, nor do I claim that either freedom of association or due process go so far as to mean that the prosecutorial power cannot be supplemented by civil law powers.

In the case against the International Brotherhood of Teamsters, however, the Government has gone well beyond any reasonable bounds by seeking to supplant the organization's top offices with a Government trustee on the basis of loosely related instances of misconduct, many of ancient vintage, by persons other than the officers slated for removal.

Because the Government has taken this tack, Teamsters President William J. McCarthy, in his testimony last week, suggested three sensible and modest limitations on the RICO statute designed to assure a more balanced prosecutorial approach. The AFL-CIO endorses those suggestions. We add that it is essential that civil RICO suits be confined to the extraordinary situations in which the Government can demonstrate at trial a clear and present danger of ongoing violations of the criminal law, despite successful criminal prosecutions that have denied those convicted a role in the organization's affairs.

The concept of collective institutional guilt on which the Government rested its case against the Teamsters is contrary to the most elementary principles of justice. It is also unworkable. Just imagine what would happen if the prosecutors applied their RICO standards equally and fairly across the board to the insider trading scandals, the savings and loan frauds, the defense contractor procurement frauds, the insurance industry Medicare frauds, and the rampant laundering of drug money. I suggest the Department of Justice would soon become the largest institution anywhere in the private business sector.

Experience so far indicates, moreover, that Government trusteeship of trade unions is not the cure-all it has been made out to be. The trustees who testified before this Subcommittee last week did not claim any breakthrough in administering the union or in advancing the membership's interest vis-a-vis employers, or in uncovering significant corruption beyond that uncovered by the prosecutors. Beneath the rhetoric, the Government's RICO complaint against the Teamsters is premised on two major allegations, neither of which relate to the union's current leadership or to the way the union is currently administered.

The first is that the elections of two former Teamster presidents—and I emphasize the word "former"—were influenced by mobsters. This claim is pressed despite the fact that the Government has yet to produce a single delegate out of thousands who voted in those elections who admits having had his or her vote influenced by organized crime figures.

The second is that the Teamsters had failed to investigate and redress mob-related violence and corruption in the IBT locals and in its joint labor-management benefit funds. A Government takeover of an international union on the basis of the alleged failure to investigate and redress local union misconduct is fundamentally unsound.

The Department of Justice fails to understand that in labor unions, unlike corporations, power flows from the bottom up rather than from the top down. In most of our international unions, including the Teamsters, the international does not have any inherent right of control over its affiliated locals, any say in the selection of local officers and employees, or any role in the local's day-to-day affairs.

I would note that it is the Government, not our international unions, that has the powerful investigatory and prosecutorial tools. It is the FBI and the local police who typically open these investigations well before the international officers learn of the underlying events. Thus, if RICO cases are a means of assessing blame for undetected or unremedied wrongdoing in local unions, then perhaps the Government is the logical defendant rather than the supposedly aggrieved plaintiff.

In sum, we ask that the Government continue its strenuous prosecution of the wrongdoers who prey on labor organizations and do so in a way that does not injure the innocent or do permanent damage to a free and independent trade union movement.

Thank you, and I will be happy to answer any questions.

Senator NUNN. Thank you, Mr. Kirkland.

Mr. Gold, do you have any remarks you would like to add at this point?

Mr. GOLD. No, Mr. Chairman.

Senator NUNN. I think you make it very clear that you do not agree with the theory of the RICO civil actions as far as trade unions are concerned in general. But putting aside that question as to whether they are appropriate in an overall sense, do you believe that trusteeships already in operation are succeeding in rooting out corruption and organized crime in those particular unions?

Mr. KIRKLAND. I believe, sir, that in those cases, the criminal acts that led to the imposition of the trusteeships were prosecuted, and effectively prosecuted, as far as I have been able to ascertain. I do not believe that any of those trustees have indicated that they have found, by virtue of their trusteeship, any significant further instances of corruption that they have addressed. And I believe in reading their testimony they express some doubts and reservations about the efficacy of their role.

When we deal with the question of the role of organized crime in relation to trade unions, businesses, or whatever source of illicit profit they seek to get their hands on, as far as trade unions are concerned you are dealing with the question of the activities of outsiders, outside influences. Clearly, the history shows that in certain cases the tentacles of that octopus of organized crime can reach into trade unions, as it has reached into businesses. But you do not address the problem by simply dealing with one of the tentacles as long as that outside influence still remains. And I believe that an effective approach to the problem must be a more comprehensive one, that it cannot be addressed by simply putting a person inside the institution where the tentacles of crime have penetrated as long as the octopus stays there.

So I think the effective way of dealing with it is a more comprehensive one: addressing the base of the racketeering influence that seeks to use and prey upon the union. You can cut off their tentacle, which is done by the prosecutorial, the legitimate and proper and praiseworthy prosecutorial pursuit of the persons who are the agents or have become the property of organized crime. But so long as that element exists in our society, the mere trusteeship in that local union, looking after its affairs after the prosecutorial process has removed the persons, the guilty persons, seems to me to be both inadequate and excessive.

Senator NUNN. It is clear that you do not agree with the theory of the Government's case against the Teamsters union in terms of the civil RICO relief sought in the original suit. But now the settlement that was entered into and endorsed by the head of the Teamsters union, Mr. McCarthy, last week, was far short of the trusteeship and left the basic day-to-day affairs in the hands of the union with an overall monitoring by the appointed officials of the Federal Government.

If you take a look at the settlement itself as opposed to the original lawsuit, what are your observations on the settlement?

Mr. KIRKLAND. I said at the time, Mr. Chairman, that I welcomed any agreed-upon, voluntary resolution of the matter that did not contemplate the control of the union by outside trustees. In effect, that is what was my formal public statement on it, and that is my position.

Senator NUNN. Will you play any role in the IBT convention where they vote on the amendments that have been agreed to now by the leadership of the union, where the delegates actually ratify the changes to the constitution that have been agreed to? Will you be playing any role in that, or will the AFL-CIO play any role in that?

Mr. KIRKLAND. I do not contemplate playing any role in the internal processes of an international union at their convention, except to the extent that I am asked or invited to do so by the officers of that union. It is not the customary practice of the AFL-CIO to attempt to instruct or guide the delegates at conventions of our affiliates as to what they should do in terms of decisions relating to their own institution.

Senator NUNN. So when they vote on the amendments to that constitution, you will not be playing a role against the provisions or for them as far as you know now?

Mr. KIRKLAND. That is correct.

Senator NUNN. Unless you are invited to come in.

Mr. KIRKLAND. That is correct.

Senator NUNN. Mr. Kirkland, the AFL-CIO Code of Ethical Practices states,

> If a trade union official decides to invoke the Fifth Amendment for his personal protection and to avoid scrutiny by proper public bodies, he has no right to continue to hold office in the union.

The code also provides that,

> No person should hold or retain office or appointed position in the AFL-CIO or any of its affiliated national or international unions or subordinating bodies who is commonly known to be a crook or racketeer preying on the labor movement and its good name for corrupt purposes, whether or not previously convicted for such nefarious activities.

In 1985, Angelo Fosco, President of Laborers International Union of North America invoked his Fifth Amendment rights in testimony before the President's Commission on Organized Crime in regard to his union activities. He continues to hold his position as president and also remains on the Executive Board of the AFL-CIO. Is this consistent with the AFL-CIO Code of Ethical Practices, or has that code been altered or changed in practice?

Mr. KIRKLAND. The code has not been altered or changed. It remains on the books. I think the question of the Fifth Amendment provision is widely misunderstood. We have never, even during the full bloom of our noble experiment in 1957, proceeded against anyone purely on the basis of his use of the Fifth Amendment. And the full terms of that provision make it explicitly clear that it is not its purpose to deny anyone that constitutional privilege or to punish or to seek to move against a person simply because of the exercise of their privilege.

I think to follow any such course raises flat out to me, and I am certain to the authors of that provision, very grave civil liberties questions.

What it does say and the way it has been construed is that invoking the Fifth Amendment does not relieve an officer of a union of responsibility for answering to a proper inquiry into the conduct of his affairs. In other words, it cannot be used, as it explicitly states if you read it closely, to shield or prevent or obstruct an inquiry into the affairs of the organization. And that is the way it has been construed, and that is what it means.

There is, in fact, no way, at least under current law, that such a legitimate inquiry into all of the details of the activities and operations of an organization, trade union organization, can be obstructed merely by the use of the Fifth Amendment by an officer. The Government has the tools and the power to go deeply into the affairs of our organizations, and does so with, I think, sufficient zeal to make any such question moot.

Senator NUNN. Could you furnish us or get Mr. Gold to furnish us the total provision there and your current interpretation of it? Because in reading it, in just reading the words of it, it appears that the invocation of the Fifth Amendment for a personal protection to avoid scrutiny by proper public bodies, he has no right to continue to hold office in the union. That seems to me to be rather clear on its face, but there may be other words that change that later on. I would like to see the whole provision. I do not have it before me.

Mr. James Grady, the general counsel of the International Brotherhood of Teamsters, testified that he believes that provision is unconstitutional. So he reads it the way I am reading it but believes it to be unconstitutional. He also testified that the AFL-CIO no longer enforces and has not enforced that provision, even though it remains in that Code of Ethics. That was his opinion as the attorney for the Teamsters.

Mr. Gold, could I ask you if you would comment on Mr. Grady's assessment of that? First, whether it is unconstitutional, whether he is misreading it; and, second, is it no longer being enforced?

Mr. GOLD. Mr. Chairman, first of all, in terms of your request, we have with us a copy of the letter that Mr. Kirkland sent to your predecessor, Senator Roth, when he was Chairman of the Committee, dated January 15, 1985, which explains our position and quotes the entire provision. We would like to make a copy of that available to you, the section on——

Senator NUNN. I have that, January 15, 1985.

Mr. GOLD. Right.

Senator NUNN. We will put it in the record.

Mr. GOLD. The paragraph at the bottom of page 2 and going over to page 3 explains the provision overall. And as Mr. Kirkland said, the section in its entirety tries to strike a balance on this difficult problem.

Maybe it would be easiest if I read the operative part of this letter, and then we can discuss it.

The AFL-CIO's policy resolution on Fifth Amendment cases attempts to do justice to the dilemma I have just described. In 1957, the Federation's convention stated that any person is entitled, in the exercise of his individual conscience, to the protection afforded by the Fifth Amendment and reaffirmed the conviction that this historical right must not be abridged. Accordingly, the convention rejected the suggestion that automatic expulsion of any trade union official who invokes the Fifth Amendment is the proper course. Rather, where an official of an AFL-CIO affiliate invokes the Fifth Amendment, the convention concluded that an investigation is required by the affiliate involved into the fitness of the official to continue to hold office. If it is found that the Fifth Amendment was, in fact, invoked as a shield to avoid discovery of corruption on his part, he has no right to continue to hold trade union office.

I think the overall point is that inquiries can have a variety of purposes. Some can be to embarrass or to otherwise place an individual who is already in the prosecutorial system in a difficult or an impossible position. And where that is true, the overall point of this provision is that that situation is different from one where an individual refuses to answer in the hope that his misuses of union office will remain subterranean and undiscovered.

I would simply note in the case of Mr. Fosco that he has been under investigation, and he was prosecuted. And the jury found him not guilty. Moreover, not even the President's Commission has suggested in any way, shape or form—and we have no reason to believe from anything known to us—that Mr. Fosco has ever in any way misused his AFL-CIO office.

Senator NUNN. So you believe that you have carried out the essence of this letter that we received and just put in the record in terms of "an investigation is required by the affiliate involved into the fitness of that official to continue to hold office"? You believe that that investigation has taken place by reason of the jury verdict? You are not talking about a separate and independent investigation by the AFL-CIO?

Mr. GOLD. First of all, by reason of the jury verdict, and secondly in terms of what we do know and what we have found in reviewing our own operations.

Senator NUNN. You did have a review in this matter?

Mr. GOLD. Yes. We have received inquiries about this, and we have reviewed it. More generally, the code continues, and we do not believe that the rules of the AFL-CIO, a private organization, are unconstitutional. We have tried to be sensitive and rational about the operational necessities of the AFL-CIO and the civil liberties aspects of penalizing someone who is in the position of being both under investigation by the criminal law authorities and subject to questioning in a second forum.

Senator NUNN. I guess what I am getting to is: What are your internal obligations within the union in terms of ethical violations? Have you ever, for instance, removed anyone under this general principle that "an investigation is required by the affiliate involved into the fitness of the official to continue to hold office"? Has anybody ever been removed under that general premise?

Mr. KIRKLAND. We have never proceeded against a person. We cannot proceed against persons. The AFL-CIO only has the power to examine whether or not to retain an organization in affiliation.

Senator NUNN. So if you found that someone was shielding themselves from corrupt conduct by their use of that amendment, if you came to that conclusion, your recourse would not be to remove that individual——

Mr. **Kirkland**. But to expel the organization.

Senator **Nunn**. You would not have that authority but, rather, to expel the union itself?

Mr. **Kirkland**. That is correct.

I should note, as I say, we do not believe and have not taken the position or construed this provision to mean that the taking the Fifth Amendment in itself is a per-se cause for action. It rather looks to the question of the underlying circumstances.

Now, I do not think anyone can—we would be the last to believe that any citizen, trade unionist or otherwise, should be deprived of the rights under the Bill of Rights of the Constitution. And I should note, I think, there was a time when taking the Fifth was used as a means of calumny or degrading or denouncing an individual who did it.

I would suggest in recent times there have been some cases of people taking the Fifth that show that it might be invoked for a variety of circumstances by a variety of people, including the President's National Security Adviser. And I would note in this case itself, or in the proceedings surrounding this case, three agents of the Federal Bureau of Investigation took the Fifth Amendment. Of those who took the Fifth Amendment—two are retired, I understand; one of them remains in office and is the number 2 person in the Las Vegas branch of the FBI, which I suggest to you is not exactly Pocatello.

The FBI itself took the position that its agents cannot be penalized for simply exercising their constitutional rights. That position of the FBI is on the record, I believe.

Senator **Nunn**. Well, I certainly agree with you that people have the right to take the Fifth Amendment and should not be automatic, per se, conclusions reached from that. But it does raise questions, as your letter acknowledges, and it raises certain obligations in terms of the circumstances in some cases to go forward and for the AFL-CIO itself, if no one else is doing it, to take some action.

Let me ask you this question, because this gets right down to it. We are going to have testimony later today from Mr. Floyd Clarke, FBI. We have an advance statement here, so let me just quote from that. He says, "The AFL-CIO has authority to conduct investigations of its members if there is reason to believe that any affiliate is contaminated, controlled, or substantially influenced in the conduct of its affairs by any corrupt influence." Is that a correct statement?

Mr. **Kirkland**. Yes, it is.

Senator **Nunn**. Then he goes forward to say the President's Commission reported that as of 1986 the AFL-CIO Committee on Ethical Practices, which has responsibility for those investigations, "has not met in the last 25 years." Is that correct? In the sense, was the Presidential Commission correct on that?

Mr. **Kirkland**. That is correct.

Senator **Nunn**. Is there a reason for that inactivity?

Mr. **Kirkland**. There is. In 1957, and the years immediately preceding that, the AFL-CIO undertook proceedings against a number of unions. Those proceedings at the 1957 convention led to actions against certain affiliates, including expulsions in some cases, including the Teamsters Union, the Bakery and Confectionery Workers Union. It became clear to us that the limited powers that we had to address the underlying problem were not adequate when they resulted only in a wholesale expulsion of a member union, nor did they serve the purpose, what I think is a lofty purpose, of the undertaking.

The Federation has no power to deal with local branches of its affiliates. It has no power to proceed against individual officers of affiliates. It has no power of removal of such persons. It has only one tool, and that is the expulsion of the organization from affiliation with the Federation.

The consequences of such an expulsion are that that organization is exiled from the mainstream of the trade union movement; its members—good, bad, primarily good, sound and honest trade unionists—are deprived of their association with their fellows within the mainstream of the trade union movement. But, otherwise, the organization continued its activities as before, and the net was nothing.

Nevertheless, we undertook to do it, fully recognizing that this was not adequate as a means of addressing the underlying problem that existed.

Following that, what could be termed a noble experiment, that self-policing, with limited tools and with absolutely no means of ascertaining the facts of the matter—that is, no real investigatory tools—we had a succession of statutes, the Landrum-Griffin Act, the laws governing the operation of pensions, ERISA, pension plans, pension funds and welfare funds, the amendments to the Landrum-Griffin and Taft-Hartley that flowed from your activities, sir, in the proceeding that we talked about before, with the manifold supervisory activities residing in the Labor Department and in the Justice Department to go into the books, records, and operations of every union, and on a random basis and on the basis of any complaint, provided with ample funds and ample resources and ample tools and zealously pursued. And it became clear to us, and it is my belief today, that we cannot fairly pursue a dual approach without those tools; but, rather, that the sounder approach is to support the vigorous and active enforcement of the law by the people properly endowed with the responsibility for carrying out that law, that those laws and the resources put behind them and the tools of their enforcement are sufficient to address the problem, and that that should be supported. And that is our position and has been our position.

Senator NUNN. Are we now perhaps moving into a different period of time—I understand that answer, and I know that we have had some testimony on that before. But I think it bears repeating today because we are now in a period of time where the law and the enforcement of it has moved into a new territory, as you yourself have observed. You have got the Government itself, after having gone through the criminal end for a long, long time, that has concluded—rightly or wrongly, the Government has concluded, the FBI, the Justice Department, the Labor Department, that there are certain local unions, maybe even an international, too, sometime down the road, that are so steeped in the history of corruption that criminal remedies and conventional cases simply have not done the job. So they have gone for trusteeships. You yourself have said that basically when the Government takes over a union and tries to run the day-to-day management, it violates all the precepts of freedom of association.

I do not want to be too leading here, but do you believe that there may be now a time to re-examine the powers of the AFL–CIO themselves in light of these alternative remedies that are coming down from the Government? Do you believe it might be time to revisit the question of whether you need additional powers at the AFL–CIO level in order to take your own steps where the situation is intolerable, rather than having the Government come in and basically try to run a labor union?

Mr. **Kirkland**. We continue to have the power, and that is inherent in our organization—and I certainly will never take a self-denying position about it—to expel an organization from affiliation with the Federation. My point, sir, is that is the only power we have.

Now, if you suggest that the affiliates of the Federation repose in the officers of the Federation the tools that the Justice Department and the Labor Department and the police have found necessary in order to find the facts with a sufficient degree of confidence to warrant their taking them before a judge for trial, I do not know how you would do that. I do not now know how you can give me, assuming it were desirable, how you can bestow upon the officer of a voluntary private organization the power to engage in wiretapping, electronic surveillance, the power to compel testimony under threat of reprisals, the subpoena power, and all of those tools that the law enforcement agencies find so necessary in order to investigate these matters properly.

I do not know how you would do that, and I do not believe that the officers of the Federation should be cloaked with those powers. I do not want them. I do not think it is my role in life. And I am satisfied to leave those police powers in the hands of the police.

Senator **Nunn**. Well, the police have decided to take an additional big step now, and they are requesting trusteeships all over the country. And I know there is going to be increasing frustration on that. Of course, you are not satisfied with that process, obviously.

Mr. **Kirkland**. No, sir, I am not. I think it is neither necessary nor efficacious, and I think it is a threat to what is a very basic principle of our society that free institutions play necessarily in a democratic free society and should not be so blithely done away with and subjected to direct Government control.

Senator **Nunn**. Now, some international unions themselves have the power to impose trusteeships and have, in fact, used those powers on numerous occasions. Do you see something basic——

Mr. **Kirkland**. I have that power, sir, over certain parts of the trade union movement.

Senator **Nunn**. Do you see anything basically wrong with that power, having that power?

Mr. **Kirkland**. No, I do not, and I exercise it when the circumstances warrant it.

Senator **Nunn**. Would that be an——

Mr. **Kirkland**. I have the power to impose a trusteeship and to revoke a charter of city central bodies, State federations, directly affiliated local unions.

Senator **Nunn**. Would there be anything wrong with expanding that power to cover other situations?

Mr. **Kirkland**. The power has not been expanded by the Government. It has been reduced by the Government. It is covered in the Landrum-Griffin Act.

Senator **Nunn**. Because of some of the internationals taking over locals. I remember that.

Mr. **Kirkland**. The Landrum-Griffin Act puts severe limitations on the grounds and the length of time during which these trusteeships can be imposed by international unions.

Senator **Nunn**. Well, it seems to me, Mr. Kirkland, where we are in this situation, then, the AFL-CIO basically takes the position that the trusteeships are not the way to go. And I understand your position on that. I am not sure how many points I agree with you on. I am trying to sort that out myself. As I indicated the other day, the whole business of attorneys' fees and the way that is handled, one of the three points made by Mr. McCarthy, it seems to me to have some real validity. I am not through sorting out the others, but right now we are in the situation where you basically do not have the power to investigate and do not seek that power. But you basically do not believe the Government ought to go in and take over and request trusteeships or even seek lawsuits. So it seems to me——

Mr. **Kirkland**. Senator, I believe that the Government should and does and rightfully has the power to use a variety of tools that are appropriate only to Government, only to Government, to investigate, to find the facts, and to build a case against miscreants in the trade union movement or anywhere else. We strongly and fully support that. We regard that as an asset to our society, a necessary asset given the foibles and the weaknesses of human beings and the prevalence of greed and avarice in our world.

I do not believe that that police power should extend to control, to arbitrary control of free, voluntary organizations by the imposition of trusteeships over all of their affairs.

Senator **Nunn**. Is there a way that at a certain stage——

Mr. **Kirkland**. I believe that these police powers are so important that it must be done with something called due process, and that it should have restraints upon it; and the terms upon which it should be exercised, since it is such a far-reaching power, should be rigorously defined. I think that the terms under which the Government pursued that authority and sought that end were dangerously vague and elastic, and that the remedy sought was inappropriate and was a threat to free institutions in this country.

I believe it is possible for the police power to be exercised in an effective way without that. I also believe that believing, thinking that you can solve the problem of organized crime where it exists in our society by imposing trusteeships on one place where, from time to time or in certain case, its tentacles may have spread, is not a solution to it.

Senator **Nunn**. Let me just throw out a couple of quotes here, because this is the dilemma, it seems to me, that you all face and we are trying to sort through. Mr. Edwin Steer, trustee for Local 560, again one of the court-imposed trustees, says,

> We have got to learn from our experience and move forward, hopefully in cooperation with organized labor, because only they have the key to solving the problem of corruption in the labor movement. Trusteeships are not the way unions ought to be run. I do not advocate it as a way to run unions. But, on the other hand, if no other alternative is available, it presents the only way we can attack the problem of corruption in the labor movement. Hopefully, organized labor will begin to assume its responsibilities, and if this Committee or Government or the Kennedy School or any other source of pressure can be brought to bear on organized labor to step in and assume its rightful responsibilities, I think we will begin to see a solution to this problem.

I guess what I am searching for, is there any way, once we get down to the last resort and corruption is still pervasive after years and years and years, is there any way that once a determination, due process and so forth, has been found, that at that stage, after due process, the AFL-CIO could basically help the Government by stepping in at a certain stage in taking over, rather than having the Government itself run these unions?

Mr. KIRKLAND. Senator, there are some things that I have difficulty grappling with, conceptually. I came before this Committee when we were considering your legislation. I supported that legislation because I think it helped us. The grounds on which I supported the proposition that officers who were found guilty of offenses should be removed and debarred from office upon conviction, rather than after years of appeals or at some further line down there, was that this was an effective means of ridding the trade union movement of people who are guilty.

Now, who is guilty? People who are found guilty under due process of law. And I embrace the proposition that once a jury, acting on the facts, decided that that person was guilty, that the presumption of innocence at that point shifted, and that it was my duty, in weighing those facts, to reach the conclusion that was in the best interest of the trade union movement.

Now, that is the law. I continue to believe that guilt is not institutional, that crime is not inherently institutional, that the human beings, people, are the carriers of crime and are the carriers of corruption. We have a law that says if a person is found guilty of a long string of offenses, he cannot serve in union office. We also have what I think is a valuable precept of a free society; that is called the presumption of innocence. If a person is not proven guilty, he is considered innocent.

Now, I have this proposition. People who are guilty cannot serve in union office, and we accept that. And it is a provision that I think is peculiar to the trade union movement. It is not true in any other walk of our society that I am aware of. I pick up the paper, and I think we could provide you with instance after instance where corporation officers serve terms in jail and come back and run corporations. That cannot happen in the trade union movement.

Senator NUNN. It took considerable courage, fortitude, foresight, and wisdom for you to be willing to come up and endorse that legislation. I know it was not something that was easy, and we take note of that.

Mr. KIRKLAND. Well, I believed it, and I did it, and I did not do it as a service to you, sir, or anyone else.

Senator NUNN. I know.

Mr. KIRKLAND. I believed that it was the proper position to take, and that it was an aid to us in keeping the trade union movement free. And I believe that insofar as any allegations of there being a problem in the trade union movement, the tools for addressing it with respect to the trade union movement that are now available, without RICO trusteeships, are far more far-reaching, far more extensive, and, I would suggest, are quite zealously pursued. You have the Nunn provisions that call for the automatic and achieve the automatic removal not only of officers but of employees. You cannot even work for a vendor of services to a trade union movement after conviction.

Senator NUNN. Or management, if they are involved.

Mr. KIRKLAND. Only to the extent that they are involved in labor relations. They can run the damn company, but they cannot be an assistant vice president for personnel.

Now, coupled with that, you have the powers that the constabulary has found necessary to ascertain guilt. And what are those powers? Those are the powers to compel testimony, to issue subpoenas, to penalize for perjury, to imprison, to engage in electronic surveillance, to bring pressures to bear of a highly punitive nature, to get people to give evidence against others.

Now, those repose in the police and the proper legal authorities. I do not believe, I personally and deeply do not believe that any private organization ought to have those necessary powers. I do not want those powers. I do not think I should have them, unless I leave the labor movement and become a police officer. And I do not intend to do that. And I do not want my role in life, the one that I undertook to pursue, which was to serve the interests of working people and to try and build their organizations of self-help as effectively as I can, I do not want to include within that structure an Inspector General's force of the dimensions that the Government seems to find necessary with those powers.

I am content to rely on the strong support of the honest, diligent and measured application of the duties and obligations of the police in these matters.

Senator NUNN. Thank you, Mr. Kirkland.

Senator Kohl?

Senator KOHL. Mr. Kirkland, I just want to cover some ground that has been covered so very well by yourself and Mr. Nunn, but I am not too satisfied myself with what the bottom line really is. I think you are saying that you do not believe that either the Government or the union should expand their police powers over local and international unions. And yet witnesses last week testified that the rank-and-file have, in many cases, no control and have not been able to exercise any effective control for years and years and years.

I have listened to your testimony and your answers to Senator Nunn's questions, but I still do not understand how you propose to return the power to the dues-paying members in cases where organized crime's influence persists and we know that it still persists.

I understand your philosophy, and I have great respect for it. I am sure it is very important and quite appropriate. But how do we get to the bottom——

Mr. KIRKLAND. I do not think your initial premises, if I remember them right, were correct. We have supported giving the Government the authority, the proper authority, the tools with which to investigate and move against crime. We have supported that.

Senator KOHL. The authority to?

Mr. KIRKLAND. Investigate and proceed against those guilty of crime and corruption.

Senator KOHL. Those individuals.

Mr. KIRKLAND. Yes. Secondly, I did not say anything to the effect that our trade unions should not have the authority to impose trusteeships on local unions. The law circumscribes and defines the ways in which they can exercise that authority, and that is on the books.

Senator KOHL. But in the cases that we have heard——

Mr. KIRKLAND. I have said here that I use that authority with respect to those areas where I have direct supervisory control.

Senator KOHL. Are you saying that you feel that the history is that your unions have stepped in and imposed trusteeships so that it is not necessary for the Government to do that because the union has done that, has done it consistently?

Mr. KIRKLAND. No. I am saying that it is one thing for a private organization to impose trusteeships within by officers and persons of that organization, as has been done many, many times on many, many occasions. It is quite another for the Government to seize control of that private organization. And there is a vast difference, and that difference is decisive to me.

Senator KOHL. I think the impression is still being left that in a sufficient number of cases, the unions have not been prepared to exercise their responsibility to see to it that trusteeships are imposed where necessary. In spite of what we have heard today, I believe that that impression is still being left here. While you do not feel that this is true, and believe instead that the union, in fact, does have the power and is not afraid to use it, why is it that you come close to saying it, but then back away and talk about the need to take action against individuals who are corrupt? As we have seen so many times, that does not really root out the corruption in the union where it exists. And the Government has had to come in and impose trusteeships.

Mr. KIRKLAND. Well, I do not agree with that, sir. I do not agree that removing individuals who are corrupt does not remove corruption.

Senator KOHL. Well, we had a man here last week who was from LCN and testified in a manner that was very convincing that it was not possible to get the job done simply by removing several officers.

Mr. KIRKLAND. If you remove the corrupt persons from any institutions, I believe that you remove the corruption with them. And I do believe that corruption is a personal attribute, not an institutional attribute, and it can only be carried by people. And those people are the ones that ought to be pursued and prosecuted.

I further said that there are cases, and the case that you cite is one clearly that falls within that, where there is an outside entity—call it the LCN—whose tentacles have moved into a local by virtue of placing people in there by one way or another. Removing those people chops off those tentacles. And I do not know how else to do it.

It does not remove that continuing threat of that entity out there that you call the LCN, outside the local union and continuing to function in a community and in this society, not only trying to penetrate local unions but penetrating businesses, governments, mayors' offices, judiciary or whatever they can do.

Now, if you do not address that and just say, well, we have solved the LCN problem by putting a local union in trusteeship, I say, sir, you have not. You have not done anything about that problem.

Senator KOHL. Do you have any suggested alternatives to these trusteeships? Are you suggesting that the way in which your unions are organized, the way in which they function——

Mr. KIRKLAND. I have a suggestion, not just a suggestion but a point that I have insisted on repeatedly. Guilt should be ascertained. The means of ascertaining that guilt require an elaborate array of tools that are properly only in the hands of the police and the properly constituted authorities. That guilt should be ascertained, and those people should be punished. And if they are found guilty—so far as I know, only in the trade union movement are guilty people then barred from serving in any capacity whatsoever in their trade union. It seems to me, sir, that is quite an array of power. That is quite——

Senator KOHL. And the Government needs to come in and do this job——

Mr. KIRKLAND. Afford its enforcement.

Senator KOHL. I would just comment, I am not——

Mr. KIRKLAND. I also support the concerted attack on institutions or entities or conspiracies, whatever you want to call them that are out there, for a malevolent purpose in our society, whether you call it the LCN, the Mafia, whatever, or the Ku Klux Klan, which as a Southerner is I guess a cultural parallel, or what exists under some other name. Those have to be pursued. But it has to be done in a comprehensive way, and it is not done by simply thinking that the local union is the source of it. The local union is not the source of it. The source lies outside. Go to the source. Otherwise, you have accomplished nothing.

Senator KOHL. I have never run a labor union. We have dealt with labor unions. In my background, I have been in business and had the opportunity and the privilege to run businesses of size and significance. And I did not always succeed, but I always took the position that I had the responsibility to see to it that my organization functioned effectively within the law, you know, exercising my powers within the law; and that if things went wrong, I took responsibility—and I encouraged my associates to take the position that they had a responsibility there. You know, when things went wrong, as long as they were not being curtailed in the exercise of their responsibilities, they had the responsibility to see that things functioned correctly, smoothly, effectively and legally.

Mr. **Kirkland**. Senator, I would want to make one thing quite clear. By virtue of the nature of this hearing, there might arise, emanate from it the notion that there is a threshold basic problem of corruption in the trade union movement of America. And I say to you here, of one thing I am convinced. That is less the case in labor and the trade union movement than it is in any other walk of society in the United States.

I believe that, by and large, and to a degree that is relatively unmatched anywhere else in America, the people who serve the trade union movement, the elected officers of the trade union movement, operate according to the highest ideals and the best standards and often at great personal sacrifice and without hope of glory, and are dedicated to the service of the people who elected them. That is the norm in this country, and that is the norm in the American trade union movement.

We are as concerned about the aberrant episodes that exist because human beings are human beings and subject to vice and corruption and to temptation. We are as determined that those should be effectively addressed, punished, and removed from our body as anyone else in this country. More so. And we have reached the conclusion that criminal acts should be punished by criminal action, and that criminal action is best pursued by the authorities who are vested with that obligation and with the tools to pursue it.

Senator **Kohl**. Well, you have made a strong and powerful statement, and I do not agree in all cases with what you say. But I respect what you have accomplished and what you have just said.

Mr. **Kirkland**. I would have thought perhaps maybe I would say the religious orders of this country might parallel the degree of probity that exists in the trade union movement largely.

Senator **Kohl**. As I say——

Mr. **Kirkland**. Having seen a few cases of what is happening in the electronic ministry, I am not so sure.

Senator **Kohl**. Okay. No further questions, Senator Nunn.

Senator **Nunn**. Senator Lieberman.

Senator **Lieberman**. Mr. Kirkland, good morning.

You have spoken, I think quite eloquently this morning, about an important principle in our society, which is the freedom of association and free institutions such as the union movement. If I may pick up a theme raised by our Chairman, Senator Nunn, and Senator Kohl just before me, I believe what the advocates of the RICO trusteeships are saying to us and the question that we are considering here is: Aren't there situations where unions become so dominated by the influence of outside organizations, organized crime organizations, that those organizations deprive the membership of the unions of their freedom of association, of the basic freedom of that institution? And, therefore, the only response that will work is to impose an outside trusteeship? In other words, meet a force with an equal force.

I want to pursue that just to this extent. If I may read from your written testimony today, you have said at one point, "The basic case for RICO trusteeships, as I understand it, is that assuming the worst—iron control of a union by a corrupt and ruthless leadership that has maintained its sway over many years by brutal force"—those are pretty serious standards—"Government control is required to counter the effects of that criminal conduct and to restore membership rights."

And then you say, "It takes a suspension of disbelief to envision many such situations."

My question to you is: Can you imagine any such situations where, to adopt your metaphor, the tentacles of organized crime reach so deeply and comprehensively into a union that you simply cannot cut them all off one by one; that you have to come in and take over the whole operation? Can you imagine a situation like that?

Mr. KIRKLAND. I can imagine a situation where in an environment and in a location where the influence of a criminal conspiracy—let us call it that; the LCN, so-called—is so strong that every association or institution, including local Government, the police force, the local judges, the employers of that community, the shopkeepers, and local unions in those industries where they have gotten their sway, have been suborned and corrupted. Exceedingly rare, I would say. Certainly hypothetically true. And I would say that there are cases in history and circumstances where that may be close to the actuality.

Senator LIEBERMAN. Would you support a trusteeship in that case?

Mr. KIRKLAND. No.

Senator LIEBERMAN. No.

Mr. KIRKLAND. For two reasons. One, because I think it is incompatible. A Government-imposed trusteeship taking total control of that organization is antithetical to what you want to have, which is a membership-controlled organization, and is in itself not supplanting a problem with a cure, but supplanting a problem with a problem that may be perhaps equally dangerous. And that is the threat of the Government deprivation of fundamental liberties and rights.

Secondly, my argument is that it is not in itself efficacious.

Senator LIEBERMAN. It doesn't work.

Mr. KIRKLAND. Right.

Senator LIBERMAN. Why?

Mr. KIRKLAND. As long as that circumstance exists in that total environment. I am suggesting to you that where those circumstances exist, you do not solve them by saying all right, we have one place here, it is called Local Union 483 or whatever, it has got a couple of LCN soldiers in there, shaking down those employers, or cementing their control by methods of threats of violence, and we will just deal with that.

Meanwhile, the institution of outsiders that created that remains. I suggest you get that institution of outsiders and all of its means of living——

Mr. GOLD. Apparatus.

Mr. KIRKLAND [continuing]. The whole apparatus—and then you deal with that problem. A temporary trusteeship—I presume no one is thinking of a permanent trusteeship——

Senator LIEBERMAN. Correct, I agree.

Mr. KIRKLAND. I have not even heard the Government suggest that.

Senator LIEBERMAN. Right.

Mr. **Kirkland**. A temporary trusteeship, as long as that source of the original difficulty remains in being, that temporary trusteeship of that local when it is gone still leaves that local prey to that core of crooks, thugs and horse thieves that are the source of the original problem. And if you have not touched that, you have not done anything.

And I further say that if you address that—which I strongly support; I have no reservations about the use of the RICO to go after the LCN——

Senator **Lieberman**. But not to impose a trusteeship on a union?

Mr. **Kirkland** [continuing]. Not to impose a trusteeship on a local union or a national union.

Senator **Lieberman**. Okay——

Mr. **Gold**. Senator, if I could, since you have referred to our statement, I do want to point out that there are alternatives to trusteeships——

Senator **Lieberman**. In those extreme cases.

Mr. **Gold** [continuing]. In those extreme cases, and that we note some in the testimony. There are civil steps that the Government could take in that kind of situation to supplement criminal prosecution——

Senator **Lieberman**. Why don't you just cite a few for the record?

Mr. **Gold**. We note that the Government overseeing the selection of the replacements of the people who have been deposed makes sense in that situation. The Landrum-Griffin Act in far less serious situations permits the Government to have a role in facilitating the exercise of membership rights. There are negative injunctions; there is monitoring in that situation which would help the membership express its views and its rights.

It seems to us that there are three different fallacies that are at work here. One is that the question is either criminal prosecutions only or trusteeships only. There are a variety of supplemental civil actions that the Government can take which do not put the Government in charge of running the organization but still allow the Government to protect it.

Senator **Lieberman**. Okay. I understand your position. I wish we could pursue this at length, but I know there are other witnesses to be heard.

Mr. **Kirkland**. Can I just define a little more closely the question of principle that I think is at stake here, and it is not just an abstract principle, it is a very real principle, because the world is replete with instances where people have been deprived of the right of freedom of association by governments, and it is a continuing problem in the world.

This country is supposed to be the leading proponent of the doctrine of freedom of association, and that principle, I think, reached its fullest and most straightforward expression in a document known as Convention 87 of the International Labor Organization, which defines and establishes the principle of freedom of association as a fundamental human right of working people. And not just labor, but I think this country has a great stake in that.

I will read from it. "Part 1, Freedom of Association." It says, "Each member of the International Labor Organization for which this Convention is in force undertakes to give effect to the following provisions." Now, we have never ratified that Convention. We have not ratified it because the employers of this country do not want it ratified. But nevertheless, the observation of its terms is an obligation of membership in the ILO.

The essence of it is in Article III.

> (1) Workers and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their programs.
>
> (2) The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

I suggest to you—I am a simple person—I find no way in which the concept of Government-imposed trusteeships is compatible with that principle, and we must find ways to address these problems other than that seemingly opportune device that some want to use.

Senator LIEBERMAN. I understand your position. Clearly, an underlying question we are pursuing here is the one I raised at the beginning, which is are the members being so denied of their rights by outside organizations that the only response is another governmental organization, and I understand what you have had to say.

If I may, I have just one more question, and this is a real life question in the sense that you just spoke of. This goes to what the AFL-CIO itself can do and does do to get at this problem.

In 1957, you have reminded us that the AFL-CIO expelled, or—I am not sure of the appropriate term—broke with the Teamsters, because your judgment was that the union was corrupt.

In 1987, I believe, the International Brotherhood of Teamsters was brought back into the AFL-CIO, presumably because there was a finding that it was no longer corrupt.

What was the process that led to that judgment, and as you look back at it, particularly in light of the criminal actions that have been taken against officers of the union in the last couple of years, do you think your procedures were adequate?

Mr. KIRKLAND. Let me clarify and straighten out a couple of technical points in this that I think will move this to the larger point.

The grounds for the expulsion of the Teamsters Union in 1957 was their refusal to acknowledge the terms of the AFL-CIO Constitution. That was the grounds.

Senator LIEBERMAN. Can you explain that for me a little bit more—in what sense did they refuse to acknowledge?

Mr. KIRKLAND. The report of the Ethical Practices Committee at that time was supposed to be put to the convention of the Teamsters in 1957, the report and recommendations. That was not done. They instead took the position that the Constitution did not apply and that they would not abide by the Constitution. That was the explicit grounds for their expulsion. It was a generic action in terms of not abiding by the Constitution.

And I assure you I would take the same action against any organization that took the same position, because our Constitution is the governing document and must be applied.

In 1987, I received a communication from the President of the Teamsters, requesting reaffiliation, and the key line was that we agree to abide by the Constitution of the AFL-CIO. I acted upon that in accordance with the terms of a resolution that had been adopted at conventions of the AFL-CIO, calling for the reaffiliation of legitimate trade unions that were outside the AFL-CIO and calling upon the officers of the Federation to actively pursue that reaffiliation, with one stipulation, that the organization agree to be bound by the Constitution of the Federation.

Senator **Lieberman**. So that at that time, it was——

Mr. **Kirkland**. When I was elected President, I declared as my leading objective as President to bring back into the mainstream of the trade union movement those trade union organizations that were outside the fold, that had been in exile, and to bring them back to the best of my ability. I have pursued that. I was serious about it. I meant it. And I am still there, trying to fulfill it wholly. I have had some success.

It was the prevailing view, and the good and considered judgment of the AFL-CIO, and my judgment, that the best interests of the members that we are privileged to represent, the best interests of the trade union movement, and the best interests of society at-large were not well-served by the exile of a major sector of the trade union movement from association with the mainstream of the movement; that neither the trade union movement, working people, nor society were well-served by the persistence of that fact, and that it would be served by bringing that organization back into the mainstream of the trade union movement. I continue to believe that. I believe it was a proper action. And it does not in any way—in any way, shape or form—interfere or challenge or call into question the right and duty of the Government to pursue its responsibilities in the enforcement of the laws of this country.

Senator **Lieberman**. Is it fair for me to conclude, then, Mr. Kirkland, that the judgment made by the AFL-CIO to welcome back or to respond to the IBT's request for reaffiliation was really not based on whether the IBT was corruptly influenced or not corruptly influenced. In a sense, going back to your earlier testimony, I think you would say that that was outside the range of your responsibility, because you are not a law enforcement organization. Am I——

Mr. **Kirkland**. It was based upon the judgment that the Teamsters Union as an organization is essentially and broadly a perfectly bona fide, legitimate, trade union organization, broadly committed to the service of its members; that these allegations and these instances that are dragged up and are used as the predicate of this extraordinary remedy that the Government is pursuing are aberrations from the norm; that the norm in that union is that it functions as a decent trade union, and it is pervasive knowledge and experience throughout the American trade union movement that the generality of the officials and officers and agents and staff of the Teamsters Union is every bit as decent and legitimate and as serious-minded in the pursuit of its duties as anyone else—as you, I, or anyone else.

That is the perception and the experience of our people, and that it is really unconstructive to keep such a movement in total exile from their brothers and sisters and their colleagues in the pursuit of the improvement of the conditions of working people; that our relationships are too close in our places of employment, that we need their contribution, and they need the strength of the general trade union movement in pursuit of that aim, which is to improve the conditions and the aspirations of plain working people in this country.

Senator **Lieberman**. Thank you. I do not want to consume any more of the time of the committee, and I thank you very much for your testimony, Mr. Kirkland.

Senator **Nunn**. Thank you, Senator Lieberman.

Mr. Kirkland, we appreciate very much your being here, and I would certainly echo your last statement about the overall people in the labor union movement in America being honorable and honest and dedicated to the well-being of the working men and women, and that what we are talking about here are aberrations and how to deal with them. And I hope that these hearings are put in that context.

Mr. **Kirkland**. I understand.

Senator **Nunn**. It is not an easy situation to deal with, and we are going to continue to be struggling with it, and as usual, we will continue to call on you and Mr. Gold and others for your advice as we go along here. I do not know whether we will have legislation on this subject, but we will certainly have some thoughts and ideas when these hearings are concluded.

I believe that one of the things that is apparent here is that with a panel of trustees, as well as your testimony—and we will hear from others in a few minutes—but at this point I think almost everyone would agree that the actual taking over and running day-to-day activities of a labor union is not a normal Government kind of duty or talent, and that it is extremely difficult—and the trustees themselves said it was extremely difficult. Whereas there are a lot of things that can be done short of the day-to-day running, which I believe Mr. Gold and you pointed out, which perhaps can achieve some of the results and even focus on the results of the corruption and the influence of organized crime and that kind of thing, without the day-to-day operation in the normal trusteeship. But I think some of the courts are finding that to be the case.

We are going to continue to pursue this question of what the Government can do in civil RICO, what the appropriate scope of the law is and, beyond that, when the last resort has to be employed, whether that last resort does indeed need to involve the day-to-day running of the union or whether that needs to focus more on supervision of elections and making absolutely certain that the corrupt practices are ended through some form of administrative control.

I think those remedies—we are not normally faced here with either purely criminal or trusteeship; there are things in between.

The only thing I would ask you to think about—and this is not in the form of a question—is when we get down to this area of civil versus criminal, and when there has been a due process hearing, that some form of last resort is required, whether there is indeed at some point a role there either for the International or for AFL–CIO at your level to help rid the particular union of corruption at that point. And I am not speaking before hearing and I am not speaking before due process. But I would hope that you would at least keep an exploring mind if not a completely open mind on that point.

Mr. **Kirkland**. I have, sir. And you may recall, Senator, at the earlier hearing on the legislation that you proposed and that we supported, we indicated that we would welcome a relationship with the authorities who have the responsibility to enforce these laws that would enable an interchange of views and information, looking to the creation of some norms of procedure that we could more effectively educate our people on as to what were the guidelines and the "safe harbors" in some of these areas. And I think there are things that could be done and could be pursued. Unfortunately, that has not existed.

Senator **Nunn**. Well, I would like to suggest to you, and I will be suggesting to our later witnesses that there be some kind of liaison established between your people, the AFL-CIO, and the Justice Department and some form of liaison with the Labor Department in these areas. I know that there are other areas with the Labor Department where you have a lot of liaison, but I am talking about a liaison in these areas of corruption.

Mr. **Kirkland**. We would welcome that, Senator.

Senator **Nunn**. I certainly believe a pathway of communication is advisable, and it has to be worked out carefully, because part of these matters are criminal, and you are not going to get into the investigative chain, and do not want to, and do not need to. But I think that a liaison could be fruitful for the men and women in the labor movement in America, and that is what these concerns are all about at the bottom line.

Mr. **Kirkland**. I wanted to just put into the record and I want to assure you that we are ready to cooperate with this committee to the fullest and to be as helpful as we can in the pursuit of your objectives—and I am quite confident that your objective, Senator, is to address a real problem and not to call into question the probity and virtue of the total trade union movement at large.

Senator **Nunn**. That is correct.

Mr. **Kirkland**. And I say here that we would welcome the opportunity to have a more cooperative interchange and working relationship with the agencies of Government that pursue these. And there has not been on our side any reluctance to engage in that sort of relationship.

Let me just read the formal position of the Federation. This is a convention position of long standing.

> It is the firm policy of the AFL-CIO to cooperate fully with all proper legislative committees, law enforcement agencies, and other public bodies seeking fairly and objectively to keep the labor movement or any other segment of our society free from any and all corrupt influences.

That has been our position, it is our position, and it is certainly my position.

Senator **Nunn**. Thank you, Mr. Kirkland, Mr. Gold. You have made, as usual, even where we don't agree with you on every point, you have made your usual very forceful and effective case here this morning, and we appreciate you being with us.

Mr. **Kirkland**. Thank you, Mr. Chairman.

Mr. **Gold**. Thank you, Senator.

Senator **Nunn**. Our next panel of witnesses will be Mr. Raymond Maria, Deputy Inspector General, Office of the Inspector General, U.S. Department of Labor; and Mr. Richard Hunsucker, Director, Elections, Trusteeships and International Union Audits, Office of Labor-Management Standards, U.S. Department of Labor.

The members of this panel will testify as to the Department of Labor's policy regarding the use of civil RICO and the type of assistance the Department of Labor can provide to the trusteeships or to quasi-trusteeships once they are established.

Gentlemen, we are delighted to have you here this morning. As you particularly know, Mr. Maria, we swear in all our witnesses before the Subcommittee.

Do you swear the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **MARIA**. I do.

Mr. **HUNSUCKER**. I do.

Senator **NUNN**. I know that you have your own schedules to meet a little later in the morning, and I have been informed of that; we know also that you have longer prepared statements, which we will introduce in the record without objection. So if you would go ahead and summarize, Mr. Hunsucker, to begin with, and then Mr. Maria.

TESTIMONY OF RICHARD G. HUNSUCKER, DIRECTOR, ELECTIONS, TRUSTEESHIPS AND INTERNATIONAL UNION AUDITS, OFFICE OF LABOR-MANAGEMENT STANDARDS, U.S. DEPARTMENT OF LABOR [1]

Mr. **HUNSUCKER**. I wish to thank you, Mr. Chairman and members of the Subcommittee, for inviting me to appear before the Committee to discuss the participation of the Office of Labor-Management Standards in support of civil RICO actions.

As you know, my office in the Department of Labor administers the Labor-Management Reporting and Disclosure Act of 1959, which is intended to protect the rights of union members.

The Office of Labor-Management Standards in the past has provided assistance to civil RICO trustees of several labor organizations. OLMS is prepared to continue and, if need be, expand such assistance in the future.

Since my prepared statement is going to be in the record, as you indicated, Mr. Chairman, I will just close and be happy to answer any questions you may have.

Senator **NUNN**. Well, that is the briefest summary I have ever heard. We will mark this one down in history. We will have a number of questions for you in a short while.

Mr. Maria?

TESTIMONY OF RAYMOND MARIA, DEPUTY INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF LABOR [2]

Mr. **MARIA**. Thank you, Senator.

Mr. Chairman, members of the Subcommittee, it is a distinct privilege to appear before this Subcommittee as a representative of the Office of Inspector General as this Subcommittee examines the

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[1] See p. 421 for Mr. Hunsucker's prepared statement.

[2] See p. 454 for Mr. Maria's prepared statement.

Government's use of civil provisions of the Racketeer-Influenced Corrupt Organizations statute in combatting organized crime and labor corruption.

This invitation to comment on such an important enforcement mechanism is a compelling testament to the demonstrated record of accomplishment and the professional standing which the Office of Inspector General and its Office of Labor Racketeering enjoy in the law enforcement community.

Today, a little more than a decade after this Subcommittee sharply criticized the Department for a virtual vacuum in criminal enforcement, the Department's Inspector General can appear before you today and boast of a competent, credible labor racketeering enforcement presence—one that can testify authoritatively before you on critical law enforcement issues.

Since its inception in 1978, Office of Labor Racketeering, or OLR, as we call it, investigations have been responsible for 692 convictions. We have acquired substantial experience in employing the criminal provisions of the RICO statute.

Among some of the noteworthy convictions arising from our criminal RICO investigations, which we conducted either individually or jointly, involved: Daniel Cunningham, president of the Union of Allied Security Guards and Special Police; Eugene Boffa and Frank Sheeran, with respect to a massive labor leasing scheme; the Fulton Fish Market, involving Carmine Romano, the United Seafood and Commercial Workers Local 359; Charles Collins, former administrator of the Michigan Conference of Teamsters, and other individuals, including Richard Fitzsimmons, son of former International Teamster President, Frank Fitzsimmons; Anthony Rosetti, secretary-treasurer of Teamsters Local 191 and 14 others in the State of Connecticut; David Friedland, former counsel to Teamsters Local 701 Pension Plan, and seven other individuals; and finally, Harold Friedman and Anthony Hughes, Teamster officials from Cleveland, Ohio.

Despite these successful criminal investigations and prosecutions, we have learned that in some instances corruption is so pervasive and ingrained in a particular union that an approach based simply on the criminal convictions of individuals has a minimal effect in reducing the level of racketeering activity.

Where a culture of corruption has become the norm, neither arrest and conviction of individuals by the Government nor internal union efforts at reform are capable of removing racketeering elements from control.

At this juncture, I should disagree with the statements of the prior witness, Mr. Kirkland, who contended that corruption was an individual characteristic, not an institutional characteristic. We have a basic fundamental difference on that point.

The arguments to the effect the union officials found guilty of crimes should be thrown in jail, but unions should be left alone to determine their own leadership, ignore the fact that criminal control of a union effectively ends any trace of democracy. To that end, the Office of Labor Racketeering and the Department of Justice have on several occasions instituted civil RICO investigations against corrupt labor organizations.

To date, OLR has been involved directly in providing investigative support to Justice in three civil RICO proceedings: Local 560, the International Brotherhood of Teamsters, in Union City, New Jersey; Roofers Local 30 and 30B, in Philadelphia, Pennsylvania; and in the recently settled suit brought against the General Executive Board of the International Brotherhood of Teamsters and certain members of organized crime families.

I think my statement summarizes explicitly the results of investigation and our position with respect to Teamsters Local 560 and with respect to Roofers Local 30 and 30B. In Teamsters Local 560 and in the Roofers Local 30 and 30B, the evidence was abundantly clear. We were dealing with a literal pattern of corruption, the full spectrum of labor racketeering; Stone Age violence, where organizational tactics involved on a routine basis the baseball bat, the gun and the bomb. Murder—murder was a very effective and persuasive technique in Local 560, certainly providing a very chilling deterrent to any dissent.

I believe that the broad support that we have given the Department of Justice, post-judgment support in the Teamsters Local 560 case and in the Roofers Local 30 and 30B case, I believe this broad support was both correct and necessary. It is our intention to provide such support both prior to the filing of civil RICO suits and following court judgments.

In the context of post-judgment support, we have conducted investigations where lead information is provided to us by trustees and others and will continue to do so. We have provided advice and expertise to trustees when asked and will continue to do so.

The one question we have involves the role that we should be playing beyond that of conducting criminal and civil investigations. Providing ad hoc support to court-appointed trustees may conflict with other OLR investigative priorities and may require us to forgo other investigative opportunities. But the providing of support to assist a trustee in the management and administration of these cases costs real time and real money. Right now, these expenditures come directly out of our budget.

Senator NUNN. Is there another part of the Labor Department that would be better suited to assist trusteeships once they are imposed?

Mr. MARIA. Speaking from experience, I can only represent that the Department of Justice attorneys, the line attorneys involved in bringing the lawsuit, and the trustees have directly approached the Office of Labor Racketeering. I think this speaks to their confidence in our ability to render sage counsel.

Again, I believe my prepared statement will address many of the concerns of the Subcommittee. I have some summary comments which I believe are relevant to the issues that were raised in last week's testimony and that were raised this morning. The issue is one of the expressed concerns of those who felt the effect of the civil RICO suits brought by the Government.

There are those union officials who contend that they should not be named as defendants in a civil RICO suit because they have never been convicted of a crime and have not been named as members or associates of organized crime families. When confronted with a litany of corrupt acts by fellow union officials, these persons sat back and did nothing. These defendants are guilty, charitably put, of nonfeasance and betrayal of their fiduciary obligations. I contend they had an affirmative responsibility to act and to take steps to address corruption—much of it documented through court convictions.

By failing to do so, by sitting back and doing nothing, they allowed racketeering to continue unabated. They, too, should be subject to civil RICO remedies.

Mr. Chairman, civil RICO clearly is not a panacea to labor corruption, but the Office of Inspector General endorses its use as a remedy to be judiciously and objectively applied.

Thank you.

Senator NUNN. Thank you very much.

Let me just ask a few questions here—we have got a vote up, and I know you all have got to leave, but I am going to stay as long as I can and cover as many questions as I can, and then we will have another panel when we come back; we will probably take about a 10-minute break, but I think I have enough time for a few questions here.

To what extent was the Department of Labor involved in the decision to bring the Government's civil RICO suit against the International Brotherhood of Teamsters?

Mr. MARIA. Early during the conceptual process, the Department of Justice contacted the Office of Labor Racketeering, discussed the initiative with us, and obtained our support.

Senator NUNN. The support of the whole Labor Department or your office?

Mr. MARIA. Initially, Department of Justice contacted the Office of Labor Racketeering, as I said. We provided our unfettered support. Eventually, the Department of Justice did brief the Department of Labor, the former Secretary of Labor, regarding the initiative, because in assembling evidence for this lawsuit, there was a clear need to acquire information from other agencies in the Department of Labor.

Senator NUNN. Did the Department of Labor itself cooperate with the Department of Justice fully and from the beginning?

Mr. MARIA. I am under oath here?

Senator NUNN. Yes.

Mr. MARIA. It was a painful experience. I think it would be accurate to say that the Department of Labor did not embrace this enforcement initiative.

Senator NUNN. Did they later cooperate?

Mr. MARIA. I don't think they had any choice but to cooperate. I mean, information was in fact presented. But this was a matter that caused great institutional pain.

Senator NUNN. Mr. Maria, in the early 1980's, this Subcommittee found a lack of interest in criminal prosecutions and law enforcement investigations at the Department of Labor. I know you are familiar with that background. Do you believe this problem has been solved?

Mr. MARIA. Senator, the problem has not been solved. Within the Department of Labor, at the policymaking levels, at the policy-influencing levels, there is no culture of enforcement.

As an institution, the Department of Labor has maintained a deep philosophical aversion to the criminal enforcement process. As a result, the Inspector General's Office of Labor Racketeering and its Office of Program Fraud Investigations—the only entities with Federal criminal investigators—these two offices are on the verge of becoming isolated islands in the Department of Labor.

As an example, some 8 months ago, the former Secretary of Labor commissioned a task force to study the enforcement process in the Department of Labor. The purported objectives were to improve enforcement effort and to determine if better coordination would be possible.

Their conclusions, after some 8 months, were that there was no coordination between the various agencies in the Department of Labor and each agency marched to the beat of its own parochial drum. What is particularly alarming and illustrative of the mindset of the Department of Labor, in this task force report, notwithstanding that the Inspector General participated in it and offered dissenting commentary, the task force report did not recognize the criminal investigative responsibilities of the Inspector General—indeed, it did not use the word "criminal investigation" throughout the text of its report, but chose to rely on words such as "regulatory" and "compliance."

Field compliance officers in certain agencies today attempt to refer to the Office of Labor Racketeering and the Office of Investigations information suggestive of criminal violations. Their constructive efforts, however, are all too frequently thwarted by their agency officials in Washington.

In an effort to serve the public interest, sometimes these dedicated field compliance officers have to resort to covert referrals. Today within the Washington offices of agencies such as the Pension and Welfare Benefits Administration——

Senator NUNN. What do you mean by "covert referrals"?

Mr. MARIA. They refer to our special agents in the Office of Labor Racketeering and Office of Program Fraud Investigations receiving information under the condition that we not disclose how it was obtained.

Within the Washington offices of such agencies as the Pension and Welfare Benefits Administration and the Wage and Hour Division, there is an alarming failure to recognize or consider the elements of a criminal case, even when there exists prima facie evidence of a major Federal violation. This attitude, I believe, has precluded the Department from establishing any semblance of an integrated, systematic enforcement program which ultimately would produce broad-based compliance.

I might add that recently, the Inspector General has submitted to the current Secretary of Labor his recommendations to address this Departmental deficiency.

Senator NUNN. I am going to have to take about a 5- to 6-minute break here. We have got a vote on and only about 4 or 5 minutes to go. So we will take a break.

Can both of you wait just a few minutes?

Mr. MARIA. Yes.

Mr. HUNSUCKER. Yes.

Senator NUNN. Thank you.

[Short recess.]

Senator **Nunn**. The Subcommittee will come back to order.

Mr. Hunsucker, we just heard from Mr. Maria as to continuing problems in terms of enforcement in the Department of Labor from his personal perspective. I would like to get your personal perspective on his observations. Do you agree with him generally, or do you disagree, and if so, in what detail?

Mr. **Hunsucker**. Well, thank you, Mr. Chairman.

I do not have the benefit of the overview of the Department, perhaps, but I do have some familiarity with my own agency, OLMS. As you probably are aware, under Landrum-Griffin, we perform a number of activities, both civil and criminal.

For example, I think last fiscal year, we conducted approximately 400 or so criminal investigations, and also turned up about 180 or 181 convictions, among other things, in addition to the elections and the reporting cases and so forth.

I am not aware of similar problems that we have encountered. Of course, most of our criminal cases under Landrum-Griffin deal with financial impropriety, embezzlement, this type of thing. When they do arise or they turn up, our investigators work them in conjunction with the United States Attorney in the area of the country they happen to be in. We have not encountered that problem insofar as I am aware.

Senator **Nunn**. Mr. Maria, we understand there have been some longstanding disagreements between Office of Inspector General and the Department of Justice regarding OIG's jurisdiction to conduct criminal investigations in the pension and benefit plan field and other areas, and of course, our Subcommittee has been involved in that, both legislatively and in terms of writing letters, asking questions and so forth.

How do you view that situation now? Is it getting any better, or do we still have a problem?

Mr. **Maria**. The dispute with the Department of Justice regarding investigative jurisdiction of the Inspector General's Office of Labor Racketeering still continues, specifically, the jurisdiction to investigate violations of the Hobbs Act and the prohibited payment provisions of the Taft-Hartley Act. Justice, notwithstanding the Comprehensive Crime Control Act and this Subcommittee's unequivocal statements with regard to its intent in the Comprehensive Crime Control Act, Justice still contends that we do not have investigative jurisdiction directly.

This, I believe, is a matter that must be put to rest once and for all. I think the Subcommittee has spoken clearly. There is a difference of opinion as to whether your statements are post-legislative enactment statements and carry no weight, and if that is the case, I recommend that we enact some legislation and clear the decks on this particular issue and, I think, signal to the American public at large that we are involved in labor racketeering enforcement, the full spectrum of it, not just selected facets of it.

Senator **Nunn**. You are saying that this is not going to be resolved, in your opinion, between the two departments; it is going to have to be readdressed legislatively?

Mr. **Maria**. That is my firm belief.

Senator NUNN. Has the Secretary of Labor met with the Attorney General in this new Administration on this subject? Do you think there is any possibility of those two getting together?

Mr. MARIA. I don't believe they have met on this particular subject, and I leave to your speculation as to whether or not they could get together on the subject.

Senator NUNN. But they have not met; they have not addressed that issue in this new Administration as far as you know?

Mr. MARIA. No, they have not. And again, going back to my earlier remarks, the Department as an institution, historically and today is reluctant to get involved in the literal business of vigorous enforcement, specifically criminal enforcement. I find it unlikely that senior Departmental officials would ask for an interpretation which would give them broader criminal enforcement.

As a practical matter, and I think a matter worth noting on this particular issue, recently, the former Solicitor of Labor attempted to limit the overall investigative jurisdiction of the Inspector General's Office of Investigations and to that end, obtained an opinion from the Department of Justice, the Office of Legal Counsel, which in effect tends to dramatically narrow the playing field for the Office of Inspector General.

The thrust of the Solicitor's opinion and the opinion of the Office of Legal Counsel is that the Inspector General is restricted in terms of investigative authority, restricted only to those areas involving program funds of the Department of Labor or employee integrity issues.

They are saying that the Inspector General has no authority, the Office of Investigations, to address criminal conduct in such areas as wrongful death, things that are generally under the regulatory and compliance responsibility of OSHA and MSHA, even in the area of pension and welfare benefits. The thrust of these opinions is that the Inspector General has no criminal investigative authority.

What is alarming here is that——

Senator NUNN. Which Solicitor General was that?

Mr. MARIA. This was the former Solicitor of Labor.

Senator NUNN. The Solicitor of the Labor Department?

Mr. MARIA. Yes.

Senator NUNN. In the Reagan Administration or Bush Administration?

Mr. MARIA. In the Reagan Administration.

Senator NUNN. The name of the person?

Mr. MARIA. It was Mr. Salem.

Senator NUNN. And who is the present Solicitor?

Mr. MARIA. There is an Acting Solicitor, Mr. Thorn.

But what is particularly nettlesome here—and I think it is time for some plain discussion if, in fact, we are ever going to address the criminal enforcement responsibilities of the Department of Labor—and I know this is a matter that has been of great interest to the Subcommittee for many years—what we have is a general reluctance to recognize criminal remedies as being an integral part of an enforcement strategy. You achieve broad-based compliance when only a credible deterrent exists. You have today an inordinate reliance on civil and administrative remedies. That kind of reliance does not promote deterrence.

That approach, I contend, merely fosters an environment in which the transgression becomes worth committing because the benefits are so high and the risk and cost of being caught are so low.

Those who consider committing violations within the purview of the Department of Labor today have only to pause and ask this question: Can I afford the fine?

We live in a litigious society. There is little stigma to being the defendant in a civil lawsuit. There is, I contend, a very visible and significant odium which accrues to being indicted, convicted, and incarcerated. It is the specter of such disgrace and confinement that creates a credible deterrent.

I firmly believe that we need to factor criminal remedies into the overall enforcement strategy of the Department of Labor. We cannot abdicate our responsibilities in this area.

Senator NUNN. You heard the testimony this morning of Mr. Kirkland; you were here in the audience, were you not?

Mr. MARIA. Yes.

Senator NUNN. And you heard his willingness toward the end of the dialogue, the willingness on his part as head of the AFL-CIO to have more liaison, or at least some liaison that does not now exist, with the departments involved, both Department of Labor and Department of Justice.

Do you believe that there would be any positive benefit from having more of a liaison relationship of the AFL-CIO with the Department of Labor law enforcement end?

Mr. MARIA. Yes, I do. I think it is time for us to recognize that, if I am to believe Mr. Kirkland's statements—and I do—I believe it is time for us to recognize that we are not adversaries. Instead, both the AFL-CIO and the Inspector General, the Office of Labor Racketeering, I think we have a common adversary—and I refer to Mr. Kirkland's statements—the common adversary would be the "crooks, thugs and horse thieves." I think it is important for them to understand our concerns, and I would be interested in understanding their concerns.

From my perspective, I have a speaking engagement this afternoon. Upon my return on Monday, I intend to pursue contact with Mr. Kirkland and take him up on that statement.

Senator NUNN. Well, that is encouraging.

Do you believe there is a greater need for the Department of Justice to coordinate the resources of the Federal Government to ensure that adequate assistance is rendered to civil RICO trusteeships, or the Department of Labor, or do you believe some combination? How do we get trustees or trusteeships the kind of day-to-day help they need in carrying out their function?

Mr. MARIA. I think that is something that we are only beginning to learn about; the application of civil RICO, and seeking remedies such as trusteeships is certainly relatively new. I think the Federal Government is acquiring a learning curve. I know it is a concern of the Department of Justice, the Inspector General and the FBI, with respect to what kind of support do you provide the remedy that you have achieved. And management and administration of a union is no small undertaking. It clearly has to be well-planned; thought has to be given to finding competent people. The big issue, I think, is one of dollars—who is going to provide the necessary support. It clearly is a venture which cannot be undercapitalized.

Senator NUNN. How about that, Mr. Hunsucker; what do you think?

Mr. HUNSUCKER. I think there is a need for some sort of real assistance to these local trustees. In the locals I have dealt with in two or three instances, they are the people out on the lines, and we have tried to offer the assistance we could, but I think yes, coordination of some sort would be useful.

Senator NUNN. Is that under your agency?

Mr. HUNSUCKER. No. We have been providing generally assistance in the election area, comparable to what we do under Landrum-Griffin. In the trusteeships relating to Local 560 Teamsters, we provided advice to Mr. Stiers when he was setting up his election and so forth, and the various problems that arose during the course of the election. In Local 814 Teamsters, we supervised that election. We are in the process of resolving protests that have arisen relating to that right now. The other trusteeship we are involved with is Local 30/30B Roofers, where we have been working with the court liaison officer and the U.S. Attorney's Office to work out an election plan which we will assist in supervising.

Senator NUNN. Beyond that function, that is the limit of your jurisdiction, your agency?

Mr. HUNSUCKER. Yes, sir. Also, as my statement indicates, we would be available to provide compliance assistance, in other words, training. We have quite a large program within our unit relating to telling members what their rights are, what the obligations of union officers are.

Senator NUNN. Have you made these capabilities known to the various trustees?

Mr. HUNSUCKER. We did make the offer in Local 560, and it was talked about but for various reasons, it never came about. We were prepared to conduct a series of seminars prior to the election in that instance.

We would also be available, as my statement reflects, to help in auditing, perhaps, or financial investigations if necessary.

Senator NUNN. Are there any other parts of the Department of Labor that you believe could be helpful, and if so, in what respect?

Mr. HUNSUCKER. Well, the Department of Labor is a pretty diversified organization. I am sure there are a number of experts. For example, someone indicated to me recently—I know nothing about the case—the Fish Market case, the trustee in that situtation, for example, is trying to run a business of sorts. I am sure any advice on how to run a business would be useful. But there has got to be a myriad of situations like that, Senator, that various experts could help.

Senator NUNN. Mr. Robert Welsh, Chief Liaison Officer of Roofers Local 30/30B—you just referred to them—in his testimony before the Subcommittee, stated,

> The Department of Labor spent a lot of time designing an election plan for me and with me. The exception is in financial reviews. Despite the fact that records were subpoenaed over the years from the Roofers' Union, as near as I can tell, no

one ever did more than check the arithmetic on the LM2 reports with the Department of Labor.

Would you respond to that?

Mr. HUNSUCKER. Yes, Senator. I noticed that comment in the testimony a few days ago, and it interested me at the time, also. I made some inquiries to our people in the area. Local 30/30B over the years has been an organized crime target, so therefore we have not been really involved in the Local. Also, we were not the organization which subpoenaed records, for example. Also, I asked whether there have been any requests for financial assistance since the implementation of the trusteeships—no, we have not received any.

Senator NUNN. Do you work with State authorities in any of your duties here?

Mr. HUNSUCKER. State authorities?

Senator NUNN. State labor departments, let's say, in elections.

Mr. HUNSUCKER. No—if they asked for advice, perhaps, but it would be strictly informal.

Senator NUNN. Didn't the State labor officials help in the Local 560 election?

Mr. HUNSUCKER. The people who actually conducted the election were out of the State Mediation Board, I believe, sir.

Senator NUNN. Are they under your jurisdiction, or do you work together with them—are you separate and apart?

Mr. HUNSUCKER. In that situation, we were providing advice to the trustee and a representative of the mediation board when they were planning the election. Also when problems arose prior to the election and at the conclusion of the election, we were providing advice.

Senator NUNN. To what extent does the Department of Labor examine LM2 reports and other union reports for evidence of corruption or criminal wrongdoing?

Mr. HUNSUCKER. Well, the LM2 reports are annual financial reports that each labor organization is required to file with the Department, and they are available to the public.

When the reports come in, they are given an exam for deficiencies—in other words, omissions or incorrect information. The ones that appear to have problems or possibly could be criminal are referred for a desk audit. In any situation where we find there could be a violation of consequence—a civil violation and/or a criminal violation—they are immediately referred to our field offices for investigation. In those situations where a criminal situation does arise, under our 1960 memorandum of understanding with the Department of Justice, the matter is referred to the local United States Attorney, who will delegate the case to us, to the FBI or some other agency to pursue.

Senator NUNN. During the last year, how many times has your office referred evidence to law enforcement authorities for criminal investigation—do you have that?

Mr. HUNSUCKER. No, but I can tell you that last year, we did something like 405 criminal investigations, and under the procedure I just described, nearly all of those would have gone to the United States Attorney, who would have reviewed it with us and delegated it to us for investigation.

Senator **Nunn**. Could you submit for the record a breakdown of the ones you have referred and to what agency they have been referred?

Mr. **Hunsucker**. Yes, sir.

Senator **Nunn**. Do you believe you have enough authority under the existing law to carry out your job, as you view it?

Mr. **Hunsucker**. To carry out the intent of the LMRDA, I think we do; it would appear that way, Senator.

Senator **Nunn**. How about resources?

Mr. **Hunsucker**. Well, resources is always the magic question in Government, of course. But we are a small agency, and as I indicated, we are involved civilly and criminally. I think we are doing fairly well right now.

Senator **Nunn**. We have another panel of witnesses. There are a lot of other questions I would like to ask, and I will be submitting some to both of you for the record.

Do you have any other observations this morning, any other thoughts relevant to what we are discussing?

Mr. **Hunsucker**. I have two comments briefly, if I could. One is to reiterate what I said about my feelings on the trustees. I think those people have an almost impossible task out there.

Also, in relation to the AFL–CIO and member national and international unions, one facet that has not been touched on which I think should be, is that the member organizations, the member nationals and internationals, at times do refer criminal situations for investigation. We have received some ourselves, and we do pursue those. I hoped it would be more, but we do receive referrals.

Senator **Nunn**. Could you give us a record of that for the record in the last 2 or 3 years—or whatever time frame you can break it down—going back 10 years would be fine.

Mr. **Hunsucker**. Yes, sir. We'll work at it.

Senator **Nunn**. Good.

Mr. Maria?

Mr. **Maria**. I have nothing to offer.

Senator **Nunn**. Thank you both for being here. We appreciate your presence, and we will have questions for the record.

Mr. **Maria**. Thank you.

Mr. **Hunsucker**. Thank you.

Senator **Nunn**. Our next panel of witnesses are Mr. Edward Dennis, Assistant Attorney General, Criminal Division, Department of Justice, and Mr. Floyd Clarke, Executive Assistant Director, Federal Bureau of Investigation.

As you gentlemen come up, we are going to take about a 5-minute break and we will start your testimony at 11:50.

Thank you.

[Recess.]

Senator **Nunn**. We have now got another vote, so we are being interrupted constantly. I think the easiest thing to do is for me to go vote and come back.

So we will be back in approximately 10 minutes.

[Recess.]

Senator **Nunn**. Our next panel will address the policies of the Department of Justice and the FBI regarding the use of civil RICO, the crafting of relief, and the support provided to the trusteeships once they are established. I would also welcome their views on some of the concerns that have been voiced, both this morning and in the previous testimony, by Mr. McCarthy and Mr. Kirkland.

We welcome you both this morning to the hearing. We swear in all the witnesses before our Subcommittee.

Do you swear the testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. **Dennis**. I do.

Mr. **Clarke**. I do.

Senator **Nunn**. Thank you.

I hope we have a little bit of time before the next interruption. I trust that we will.

So why don't you go ahead and proceed, and I appreciate your patience.

TESTIMONY OF EDWARD S.G. DENNIS, JR., ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE [1]

Mr. **Dennis**. Mr. Chairman, I will not be reading the entirety of my statement into the record. I do have some prepared remarks to be presented orally, but before I get into those, I did want to respond to a number of issues raised particularly by Mr. Kirkland.

With regard to the Department's approach to trusteeships or court liaison officers, I wanted to make clear our appreciation for the fact that this is not a punitive measure; that this is only sought as a last resort for the purpose of remedying usually a long pattern and an ingrained pattern of racketeering within an organization—it is not necessarily a labor organization, but of course we are speaking of that in this context this morning.

It is also our approach that the trustee or the court liaison officer should be in place only so long as it takes not only to remove those engaged in racketeering activities from union offices, but also to remove that influence; and that can involve a period of time in which elections would be held outside of a period in which racketeering influence would be felt, where hopefully a leadership within the rank and file of the union will come forward that is not a product of racketeering influence. And in general, our approach is not one to weaken the union, but hopefully to strengthen it and to at least allow the union to recover from what is often a very debilitating period of racketeering activity.

With that, Mr. Chairman, I am pleased to appear before you today to discuss the issues surrounding the use by the Department of Justice of civil RICO provisions.

As you know, we have asked the Congress to preserve strong criminal and civil RICO provisions for use by the Government in appropriate cases.

The record of successes using RICO in criminal cases is an impressive one. I have described some of those successes in my written statement, and I will not repeat them now. Criminal RICO is important not only for its own sake, but for its role as the foundation upon which we build civil RICO suits to eradicate longstanding criminal influences from legitimate enterprises, particularly labor unions.

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[1] See p. 476 for Mr. Dennis' prepared statement.

There are a few specific areas concerning the Government's use of civil RICO that I would like to address briefly at this time.

First, we intend to increase our efforts under 18 U.S.C. Section 1964(c) to secure treble damages in those instances where the Government has been injured in its business or property.

As you may know, there is some authority to suggest that the United States is not a "person" entitled to recover treble damages under Section 1964(c) of RICO, and this is a very critical provision for us, particularly because we are employing RICO more and more in the area of defense procurement fraud and other substantial frauds against Government programs.

With regard to the more usual type of Government civil RICO suit, the action for equitable relief under 18 U.S.C. Section 1964(a), I would like to address several points.

First, although civil RICO suits have proved to have tremendous potential in certain situations, especially in cases involving unions infiltrated or dominated by organized crime, we always look for less drastic alternatives before resorting to RICO or the court appointment of a trustee and related relief.

In this connection, I support legislation that seeks in part to implement certain recommendations of the President's Commission on Organized Crime. One of the proposals would give the Secretary of Labor standing to bring civil actions against labor union officials who breach their fiduciary duties under the Labor-Management Reporting and Disclosure Act with respect to internal labor union affairs. Only union members may pursue such actions under the current law, and we believe that the Secretary should have this power.

Second, I would like to address a point raised in an earlier hearing by Mr. McCarthy and Mr. Brady, president and general counsel of the Teamsters International, respectively.

Mr. McCarthy has said that the recent settlement of the IBT RICO suit is inconsistent with the Federal statutory scheme in the Labor-Management Reporting and Disclosure Act. We believe that the standards there and the considerations under the Act are being fully realized in that particular litigation. As I have stated earlier, it is the object of the litigation to ensure that the union has a period of time in which to conform its conduct to the legitimate aims of the union, and that is the service of the membership, and to remove from it the influence of racketeering.

Teamster officials also stated that the settlement is inconsistent with positions taken by the Government in prior litigation in which the Government approved the old election procedures for the Teamsters. You may recall that that is one prominent feature of the consent decree and that free elections and a revised procedure for elections would be employed under the consent decree.

It is our belief that again, the approval of the old election procedure as permissible does not address the issue that the old procedure was really in fact perpetuating the influence of those who were influenced by racketeers, and also was much less democratic in our view than would be necessary as an insurance against the re-emergence of racketeering influence within the union organization. Of course, this was agreed to by both parties, and we believe that in this particular case, the fact that you have a consent decree is a much preferable disposition than to even have it imposed after a lengthy and perhaps hard-fought trial.

In addition, Mr. McCarthy complained that labor unions ought to be allowed to pay legal fees to their officers who are charged with conduct harmful to the union. There is a split of authority in terms of the standard which would inform responsible union officials as to when they should authorize the payment of legal fees where one of its officers is charged with defrauding the union or otherwise abusing a fiduciary responsibility.

It is our belief that such fees should not be paid unless the charges are found to be meritless, that there is a good faith belief that they are unsupported, or where the particular officer has been exonerated.

I would point out that insofar as corporate officials are concerned, the standard generally is that such fees can be advanced generally with a guarantee that they would be repaid if the particular official is convicted of the wrongdoing charge.

Senator NUNN. Mr. Dennis, let me interrupt you there. I think this is one area that must be given some thought and some search for precedents, and I know you have just cited one. But for instance, in this case, you started your action by saying that they should not get attorneys' fees, right?

Mr. DENNIS. I believe so.

Senator NUNN. Okay. And you just stated that you believe they should not reimburse attorneys' fees unless they were exonerated; that is basically your view, right?

Mr. DENNIS. That is correct.

Senator NUNN. But now, this settlement did not exonerate anyone?

Mr. DENNIS. That is correct.

Senator NUNN. But the Government position changed and allowed attorneys' fees; right?

Mr. DENNIS. I was not aware of that. [Conferring with staff.] Yes, it was agreed.

Senator NUNN. All right. So the Government allowed attorneys' fees even though there was no exoneration?

Mr. DENNIS. That is correct.

Senator NUNN. So what you have here is attorneys who—having been one myself—who want to get paid—most of them do, most of the time. The Government itself is going to determine when they get paid when you have a settlement. So you have huge leverage on the attorneys. You have very, very strong leverage on the attorneys.

Mr. DENNIS. I understand.

Senator NUNN. And I don't know what the answer is; I don't have one, because if there is clear criminal wrongdoing, clearly, the union should not pay to defend people who have been stealing from the union. But in a civil case where the Government itself is in a position of acquiring by this means that type of leverage over the lawyers representing the parties, it appears that that has to be thought out very carefully. And in this case, even though attorneys' fees were paid, they did not meet the standard you just gave.

They were not exonerated; the very nature of the settlement indicates there was no exoneration. So the standard you just gave on attorneys' fees was not met, and yet the Government has now said, "Okay, pay them. Pay those lawyers who just settled this case with us."

Mr. **Dennis**. I don't believe that this issue should be abused as a tactical matter. I think it is a matter of public policy insofar as whether or not—and I think in some of the cases that have analyzed the issue, it has been couched in terms of the person involved in the malfeasance abusing their authority or actually defrauding the organization can then use the assets of that organization to defend themselves.

In this particular case, there are a couple of issues that I think should be kept in mind. One is that insofar as the members of the board were concerned, the charges against them, or the facts that gave rise to the lawsuit really involved their failure to take actions against locals that were influenced by organized crime, or to take action in light of convictions that had been——

Senator **Nunn**. In other words, nonfeasance.

Mr. **Dennis**. Yes, nonfeasance. And although I don't think that explains it entirely, that may have been what prompted the compromise on that particular issue.

But I think the point is well-taken that if it is an issue that can be bargained away, and it is being treated for tactical advantage, that certainly should not be the way in which this principle is invoked, and I will certainly take to heart your recommendation that we take a close look at it.

Senator **Nunn**. I think you need to take a look at the criteria by which you seek to deny attorneys' fees in the first place.

Mr. **Dennis**. It is a complicated area, there is no question, and the precedent is not on all fours with regard to the standard, either. So this is an area that is emerging.

Obviously, the courts are the ultimate arbiters on this issue, but our position on it will certainly carry great weight. And I will take the issue under consideration in terms of the equity.

Senator **Nunn**. It is not just leverage on the attorneys; it is also leverage on the parties. I do not mind the leverage situation as long as it is appropriate leverage, but the parties themselves face a situation where, if they go all the way, if they believe they have not been in any way guilty—"guilty" is not the right word to use in a civil context—but if they have not really committed the nonfeasance that they have been charged with and yet, by going all the way with it, they may very well end up bankrupt themselves because the Government is seeking to deny them attorneys' fees to defend themselves from essentially nonfeasance in office, they themselves have financial pressure not to pursue their own defense in these actions.

Mr. **Dennis**. I agree there are some substantial equities there; they are not insignificant.

Senator **Nunn**. I would like for you to just think through it, and if you could submit something to the Subcommittee on that. Whether we need to change the law in that respect is one question, or whether it can be handled by internal Justice Department criteria in this area; I just think it is a question that needs to be addressed.

Mr. DENNIS. I would be happy to do that.

Another issue that has come up in the area of equitable relief has been the assistance which the Department can and should provide the court-appointed trustees or court liaison officers.

As you know, there have been—and this is an area in which we are slowly gaining some experience—but there is a need to support the court-appointed officers not just in terms of the funding for their operating expenses, but also with regard to information that they often will request, and assistance in gaining information, perhaps in the way of background checks on prospective appointees within the union framework, if that comes under the jurisdiction of the trustee.

There are no easy answers to this, and clearly we do have an obligation—although I think it is limited, and the burden oftentimes falls on the Bureau in terms of the requests—to provide information to the trustee that would be appropriate in his or her making judgments in discharging their duties and overseeing this period of transition in the union's future.

However, we are at this juncture attempting to formulate along with the Bureau some policy guidelines that will provide a more consistent standard insofar as what we can and should be doing and what we will not do in this area.

Also in terms of the funding for the trustees, it is our view that the resources for that should come out of the organization itself. We feel that this is analogous to the bankruptcy situation where, for whatever reason, an institution finds itself in these kinds of difficulties that the assets of the institution should be used to provide the corrective measures.

We also feel that where, for instance, a local union is part of a larger international that has some responsibility in this regard that perhaps the assets of the international should also be looked to. We have, I believe, had—and I am not conversant with the specifics—some instances where the international has basically refused to open its coffers insofar as helping to provide support for these trustees. Now, whether that is just a matter of an expression of opposition to the principle of having these trustees appointed or not, I am not sure. But we feel that the first resort in terms of resources should be the organization itself, and there are a number of policy reasons that make it really unwise for those funds to come out of the budget of the Department of Justice or the Department of Labor or the Government coffers.

Finally, I would like to mention briefly the issue of the RICO reform legislation. As you know, in this session of Congress as in previous sessions, there were bills pending that would reform civil RICO in order to limit the number of presumably unwarranted suits by private plaintiffs. We support in principle those bills, S. 438 and H.R. 1046, although we have some reservations about their details. Our primary concern is that any RICO legislation not affect the Government's ability to use effectively both criminal and civil RICO provisions.

Thank you, Mr. Chairman.

Senator NUNN. Thank you very much, Mr. Dennis.

Mr. Clarke?

TESTIMONY OF FLOYD I. CLARKE, EXECUTIVE ASSISTANT DIRECTOR, FEDERAL BUREAU OF INVESTIGATION [1]

Mr. Clarke. Thank you, Mr. Chairman.

I am also pleased to be here today before you to present information pertaining to the FBI's use of the civil provisions of the Racketeer Influenced and Corrupt Organizations Act of 1970 (RICO) as one of its many remedies to combat organized crime's encroachment in American society.

The perception by many is that this statute is anti-union and is being employed to break the back of organized labor. In truth, the statute is being used in a surgical sense—to remove the corrupting and harmful influence of organized crime from labor unions as well as from other facets of the marketplace.

I believe that my remarks today and answers to questions you may have will go a long way toward putting to rest that erroneous perception.

In my prepared statement, which has been submitted to the Subcommittee and which I understand will be made a part of the record, I have provided several case summaries of FBI investigations to illustrate the Government's broad and flexible application of the civil RICO statute against organized crime interests in labor unions as well as legitimate business.

Some of these cases concern organized crime influence within the business community, such as the restaurant and commercial seafood processing industry, and have already been addressed by civil RICO litigation. Additionally, pending litigation has targeted the La Cosa Nostra (LCN) family structure itself and its businesses which were purchased with funds illegally acquired by the LCN. These investigations and the other case summaries provided to the Subcommittee are the FBI's response to the Congressional mandate to move against organized crime's infiltration of legitimate businesses.

The legislative history of the RICO statute affirms the intent of Congress that organized crime be separated from its economic base. In choosing to infiltrate organized labor, the LCN has also chosen the battlefield upon which the Government must wage its assault.

I am here today to address civil RICO as it is used against the LCN and as it has been used successfully following criminal investigations and criminal prosecutions to eradicate an identified crime problem. My prepared remarks do not address the use of civil RICO by private and corporate plaintiffs who seek treble damage awards pursuant to section 1964(c) of the statute. Initiatives presently before the Congress ask for modification of the language of civil RICO to address the concerns of the business and legal communities with respect to alleged abuses by private and corporate litigants. I will defer any inquiry in that area to the Department of Justice for comment and resolution.

In its 1986 report, the President's Commission on Organized Crime specifically identified four international labor unions as significantly corrupted by organized crime. These unions are the International Brotherhood of Teamsters, the Laborers' International Union of North America, the Hotel Employees and Restaurant Employees International Union, and the International Longshoremen's Association.

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[1] See p. 539 for Mr. Clarke's prepared statement.

The President's Commission recommended among other things that "increased use of criminal and civil provisions of the RICO statute (be used) as a means to strike at the legitimate economic base of organized crime. . . ." Partially in response to this report, but largely as a result of our assessment of intelligence information, prior successful criminal prosecutions and a recurring crime problem, the FBI initiated a civil RICO investigation of LCN influence over the affairs of the International Brotherhood of Teamsters (IBT) and its executive officers. Unlike prior civil RICO investigations, which focused upon organized crime influence over the affairs of the IBT Locals 560 and 814, this investigation would focus upon the national union and organized crime corruption within the highest levels of union management.

The significance of that investigation was realized on March 14, 1989, when the Teamsters Union agreed to a settlement with the Government. The complaint filed against the Teamsters Union, its executive officers, and members of the LCN was based on prior FBI investigations. Those investigations and subsequent convictions publicly exposed the influence of the LCN in the Teamsters Union as well as pervasive and widespread corruption within the union itself. As one term of the settlement, the Teamsters Union, its General Executive Board, 11 of its current international vice presidents and general president acknowledged that the LCN had infiltrated and controlled certain elements of the union.

In summary, the agreement provides: one, a permanent injunction which prohibits any Teamster member from knowingly associating with any organized crime member; two, court-appointed officers empowered to expose corrupt members and expel them from the union; three, an independent and permanent disciplinary committee, which will review all matters of corruption within the union; four, changes to the union's constitution, which will facilitate these court-ordered changes and enhance the democratic process; and five, direct election of executive Teamster officers by secret ballot of the membership under a one-person/one-vote apportionment.

The litigation of this matter has also resulted in 45 consent and default judgments. These judgments are against the Teamsters Union, the Teamster General Executive Board, 19 current or former Teamsters International officers, the Commission of the LCN, and 23 LCN members or associates. The injunction prohibiting Teamster members from knowingly associating with organized crime members is the most powerful tool afforded law enforcement in this settlement. However, we believe that the restoration of democratic elections will keep the organized crime presence from the union.

This historic investigation and settlement represent the dedicated efforts of hundreds of FBI Special Agents. The FBI views this settlement as the single most important labor racketeering victory achieved in our Organized Crime Program since the program's inception.

To date, no FBI investigation has been initiated at the request of any national labor leader for the purpose of removing organized crime from the ranks of organized labor.

However, Jackie Presser, former Teamster General President, at great risk to his personal safety, provided confidential information to the FBI which led to several successful criminal investigations of corrupt union officers and organized crime members within his union.

Senator NUNN. Mr. Clarke, could I interrupt you there, because I was going to ask you this question anyway, and this is an appropriate point.

You probably heard, or I will acquaint you with it if you didn't, Mr. McCarthy, President of the Teamsters, testify last week that Presser was, "a crooked stool pigeon" who lied. McCarthy testified that Presser was, "looking to help himself in any way he could, personally, not for the good of the union."

Would you comment on that?

Mr. CLARKE. I would not begin to try to characterize Mr. Presser or speculate on what his motives were. What I can say is that the information we received from Mr. Presser provided a substantial predicate basis for conducting investigations which led to the successful conviction of corrupt officers within labor unions and the convictions of many high-level LCN figures.

Senator NUNN. So his information proved to be accurate.

Mr. CLARKE. His information did prove to be accurate and beneficial.

Senator NUNN. Thank you.

Mr. CLARKE. Mr. Presser stated he was driven to his confidential course of action because of the climate of fear and reprisal due to the pervasive presence of the LCN in and around the union and related industries.

Indeed, the long history of violence against many Teamster officers and members gave Mr. Presser ample reason to fear for his safety. In addition to the ominous disappearance of former Teamster General President James Hoffa, there were the organized crime-related deaths of several Teamster officers and members; the Genovese LCN family's 30-year reign of terror over Teamster Local 560 by Teamster officer and LCN member Anthony "Tony Pro" Provenzano; the public murder of Teamster and organized crime associate Allen Dorfman; and hundreds of assaults, bombings, and incidents of intimidation that occurred during Mr. Presser's lifetime.

In his remarks before this Subcommittee on April 11, 1988, Director William Sessions advised you that the FBI had implemented an Organized Crime National Strategy which, when combined with other initiatives, would make it possible to remove the LCN as a significant threat to American society. The use of civil RICO investigations is a significant component of that strategy. While criminal RICO investigations are the cornerstone of our strategy, the successes we have achieved in the civil RICO area, most notably the recent Teamster settlement, move us closer to our goal.

The case summaries provided to the Subcommittee illustrate the development of civil RICO and the increased complexity of the remedial action crafted by the courts to free unions and legitimate businesses of LCN influence. The placement of a union in receivership under the authority of a court-appointed officer or trustee is one example of a judicially-crafted remedial action.

The interaction of the court-appointed officers, a judicial branch appointee, and Federal investigative agencies representing the executive branch has created problems in the areas of information exchange and investigative support.

The role of the FBI in support of these trusteeships is evolving. We are faced with a matrix of privacy and secrecy laws enacted to afford our citizens their Constitutional privacy rights and our judicial system investigative confidentiality. The confidentiality of our grand jury proceedings and criminal investigations must be maintained. In addition, we must deal with legal rules that separate civil and criminal information and procedures.

One of our primary concerns is discovery pursuant to the Rules of Civil Procedure as it relates to civil RICO investigations. Within this area, disclosure of informant identities and pending criminal investigations are of paramount concern. We must, and will be very selective in the matters we propose to the Department of Justice for consideration of civil injunctive relief. Our limited experience has already demonstrated the vulnerability of the confidentiality of our sources of information and ongoing criminal investigations in the civil discovery process.

This is an area of concern to the FBI and I believe to this Subcommittee. The use of civil injunctive relief to combat an identified organized crime problem that defies remedy through traditional criminal prosecution is a relatively new legal initiative and is one that must be carefully and selectively employed.

As I mentioned before, a court-appointed officer to prevent an identified abuse has been a remedy utilized by the Federal courts to monitor or control the activities of a union until the democratic processes are restored or the economics of competition are returned to the marketplace.

However, as a result of prior trusteeships, several concerns have surfaced regarding the effective administration of court-ordered relief. Some of these concerns involve the funding for court-appointed officers, a required staff, staff funding, the access to privileged Government information, and the potential liability of these officers from third-party injury. We are also concerned as to the degree of monitoring to which defendants should be subjected and the role of the court officer in determining enforcement action against non-party defendants within the trusteeship. Each of these issues address both the spirit and intent of the court order as well as the practical application of compliance determination.

The FBI in cases civilly adjudicated to date, has identified the criminal problem to be civilly addressed through the investigative process and has then proposed injunctive relief to Government civil litigators. However, the proposed injunctive relief recommended by these litigators to the court and the subsequent relief ordered by a Federal court may not be similar to the relief envisioned by the FBI. To avoid enforcement problems, careful coordination and preplanning must be undertaken prior to this order's issuance with all Federal, state, local and private regulatory and enforcement bodies. This action will ensure that the final relief order can be reasonably and effectively enforced.

The FBI has instituted administrative procedures to record civil RICO court orders by listing these civil sanctions in our indexing systems. This informational indexing, by individuals and organizational entities, will permit violations to be brought to the attention of the appropriate district court when they become known during the course of our investigations. The FBI has statutory jurisdiction to initiate an investigation to determine if civil RICO sanctions have been violated.

The FBI does not seek to broaden its statutory jurisdiction to include regulatory monitoring. Our investigative mission as well as our Organized Crime National Strategy would be encumbered and diluted by regulatory compliance administration that duplicates the efforts of other Federal agencies. Court-appointed officers managing trusteeships have numerous Government and private agencies to call upon for expertise or assistance to establish or enforce industry or union regulations.

Several Government agencies, particularly the FBI, have expended millions of dollars and considerable resources and personnel to enforce the Federal labor laws. The Congress, throughout the years, has enacted significant legislation to combat labor racketeering and has conducted numerous committee hearings that have focused much needed attention on the LCN infiltration of labor unions. The courts have sentenced and thereby removed hundreds of corrupt labor union officers. The media, through television, radio, and print reports, have publicly informed our citizens of these efforts and the LCN presence in organized labor. Only one group has failed to join these efforts—organized labor itself.

Organized labor has not joined the fight against LCN influence to the extent necessary. Organized labor has a fiduciary responsibility to seek out corruption within itself and to free the labor movement of LCN influence. This responsibility cannot be abandoned or transferred to Government investigative agencies and our criminal courts. This apparent need for more self-regulation and of attention to supporting the best interests of its own membership is significant, and is an area for which organized labor should be held accountable.

Thank you.

Senator NUNN. Thank you, Mr. Clarke.

On that last point, Mr. Clarke, we had a considerable amount of discussion with Mr. Kirkland this morning on that, and I do not know whether you were here for all of his testimony, but his basic thrust was that AFL-CIO did not have nor did they seek the powers that Government has—subpoena powers, powers to compel testimony, et cetera.

How do you respond to that, to the lack of investigative power and the fact that he felt the police power had to be the primary instrument here in ridding organized crime from organized labor?

Mr. CLARKE. I heard the latter part of Mr. Kirkland's remarks, and the essence of my response to that is that I think that we have to look at the labor leaders' responsibilities in policing their own organizations and whether or not we are going to endorse only a standard of criminal conduct before action is taken. He seems to want to set the standard as criminal violations, evidence produced beyond reasonable doubt as to an individual's involvement although he is faced with a litany of successful prosecutions and much public testimony, both before this Committee and the President's Commission on Organized Crime, as well as other hearings going back to the Kefauver and McClellan hearings. There is a tremendous amount of information out there that identifies corruption and, in fact, designates and identifies four specific labor unions that are substantially controlled by organized crime.

Maybe he should look at other levels of proof such as probable cause or a preponderance of the evidence. Perhaps the standard should not be a conviction of criminal acts before action is taken to remove people who are in a position to influence the direction of their unions.

Senator NUNN. You clearly do not believe that organized labor is doing enough in this area; is that correct?

Mr. CLARKE. That is correct.

Senator NUNN. In policing their own house.

Mr. CLARKE. That is correct.

Senator NUNN. What do other organizations do in policing without subpoena authority and authority to compel testimony and so forth? For instance, the Baseball League now has an investigation going on that we have all read about, without getting into the details of it. The NCAA has all sorts of investigations. Do they undertake these investigations without the power to compel testimony and subpoena documents, et cetera?

Mr. CLARKE. I am not totally familiar with all the procedures that they have, but I would think it would be much like any other business or organization, that there are certain terms that are conditions of employment or membership, and those organizations can set those terms and either acquire the information or the relationship between the employee or the member would be terminated.

So I think that within those organizations, they have certain standards. There are different procedures and policies that govern the conduct of people who are members of those organizations.

Senator NUNN. There are no private organizations that have police power that you know, are there?

Mr. CLARKE. Not that I know of.

Senator NUNN. Mr. Kirkland suggested this morning that as an alternative to civil RICO trusteeships, the Government's prosecutorial power can be supplemented by appropriate civil powers, and he listed an active Government role in supervising after debarment of officials, serving injunctive relief against individuals who, though not prosecuted, are shown to have committed wrongdoing, and strict Government scrutiny of union expenditures.

Do you believe these suggestions are an alternative to a trusteeship in most cases?

Mr. CLARKE. I think that they all have some merit—and I imagine that Mr. Dennis would have some comments on that. I think that what we are faced with is a 20- or 30-year history that the actions of the Government in terms of criminal prosecutions and public hearings has not produced those kinds of actions. So the

Government then is faced with the alternatives and where do we go. And I think it was through a number of hearings and concern about how do we deal with an entity that is so entrenched and so insulated that the Congress passed the RICO legislation. It has been an evolving process, and even though the Act was passed in 1970, it was a period of 7 or 8 years before the FBI and the Department of Justice really became familiar with the criminal provisions and began to apply that.

What we found was that the procedures that we had been using over the years to deal with organized crime, the prosecution of individuals who were participating in the criminal activity, permitted us to tailor investigations enabling us to prosecute some of the major leaders or bosses of these organizations.

But there were people behind the scenes who had developed systems and procedures to insulate themselves, and were actually, in fact, members of these enterprises. We then applied the criminal aspects of RICO to deal with those people who were otherwise insulated. Going through that process, we now look at the situation. Does the crime problem still exist? Have the criminal prosecutions eradicated it? We employed the forfeiture provisions of RICO and removed the profits that people would have generated from this criminal activity. Did that remove the problem? And the answer to both of those questions is no—the problem continued.

That is when we began to look at the provisions of the civil application to employ certain remedies that would allow for these unions to have a democratic procedure and rid themselves of the organized crime elements.

Senator NUNN. Mr. Dennis?

Mr. DENNIS. Mr. Chairman, if I might comment on that point, I agree with Mr. Clarke that really with the passage of the RICO statute, law enforcement was forced to look at institutional crimes in a different way. I think that Mr. Kirkland's remarks and his recommendations insofar as measures that he feels would be more customary is really ignoring a more recent history and experience that we have had in these matters, and that is—and he has stated it quite candidly—that he does not feel that institutions are capable of being corrupt; there are only corrupt individuals in those institutions. And I think that that flies in the face of the whole theory on which RICO was drafted.

Indeed, you can have organizations that have become corrupted not just by individual acts, but by networks of individuals who have a history, who perpetuate their power within those organizations. It does not depend necessarily upon one individual or 2 or 5 or 10. It is a matter that is self-perpetuating, and it is a process that is put in place much like a disease. I usually use that analogy, in the sense that a trusteeship is in effect putting an organization or an enterprise in intensive care. Hopefully, you do not put people in intensive care for 5 years, but sometimes it is necessary that they be in there for a period of time until they reach the point where they can function more or less under these less restrictive procedures.

So I think there is a fundamental difference. The proposals that are being made with regard to closer scrutiny really are just regulatory procedures that are currently in place, and that is just inadequate in the kinds of situations we find we are confronting in these RICO cases.

Senator NUNN. Mr. Dennis, what about civil RICO being used, or trusteeships being sought, in other types of groups other than the organized labor, organized crime—for instance, white-collar criminals, the savings and loan industry, Wall Street firms. Do you envision those things taking place in the future?

Mr. DENNIS. Theoretically, they are not exempt. The statute is couched in general terms, and it is not limited to labor organizations by any means.

Whether or not a suit is filed, asking a court to impose a trusteeship on any business organization or other type of enterprise really, I think, depends upon whether you are talking about conduct that is either isolated or is so focused that it does not really implicate the basic fundamental operations of that particular business enterprise.

In many of these corporate cases, we have found that although a RICO charge can be brought, that it is not a racketeering process that is so deeply ingrained that a trusteeship is necessary, but one could imagine a situation where that might arise.

Senator NUNN. It could happen.

Mr. DENNIS. It definitely could happen.

Senator NUNN. There is certainly nothing in theory that would limit the use of civil RICO to labor unions.

Mr. DENNIS. Nothing at all. And in fact, in the S&L situation, of course——

Senator NUNN. They are removed by FSLIC.

Mr. DENNIS [continuing]. They are removed. They are usually imposed by the regulatory agencies, but that is done——

Senator NUNN. The FDIC and FSLIC both impose in effect receiverships.

Mr. DENNIS. That is correct. In fact, if we were to run into a situation in which——

Senator NUNN. Of course, they have a direct insurance connection.

Mr. DENNIS. Yes, they do. But if we were to run into a situation of an S&L that was, let's say, as deeply involved in organized crime as some of the labor organizations, in all probability, we would call upon the regulatory agencies to operate the institution in any case, so we would be unlikely to have that expertise.

It would make sense to bring in someone outside of the regulatory scheme in that instance because you are generally talking about financial decisions, so I would think that would be what you would opt for.

Senator NUNN. If you had to state a summary standard for employing civil RICO and seeking trusteeships, how would you describe that standard?

Mr. DENNIS. Well, I would say there were a number of factors that would inform me with regard to that. One is the length of time and the history of racketeering corruption that this particular organization has been subject to. So I would look at the length of time. If it was a matter of one or 2 years, I probably would not be inclined to pursue that. If it were a matter of a number of generations, then that would be different.

Also, it would be a matter of the extent to which corruption and racketeering activities had permeated the organization. Is it a matter that just involves a few officials, even though they may be high-ranking, or is it something that has spread to really invade most of the organization and most of the power centers within it.

The third thing would be my view of whether or not a trusteeship had a reasonable chance of succeeding, of making the situation better rather than making it worse.

So, off the top of my head, I think those would be the three things I would look at.

Senator NUNN. Do you think under ordinary civil RICO conditions, you are better off with some type of settlement that stops short of running the day-to-day affairs of a union by trustee?

Mr. DENNIS. First off, I think a settlement of the issue between the organization and the Government is the best arrangement.

Senator NUNN. Like the Teamsters settlement?

Mr. DENNIS. Yes. I as a U.S. Attorney in Philadelphia—we had the 30/30B case, which is still under the court liaison officer—but it was my goal if possible to reach a settlement in that case and have a consent decree rather than going to trial—not because I was afraid I was going to lose, but because I felt you really needed to have the union at least in some capacity embracing this procedure, and that we would be much better off with that arrangement than we would in a totally adversary situation right down to the wire, because I think it does require some cooperation not only from the rank and file, but from those who are the natural leaders within the labor organization.

So I do prefer some sort of settlement over an adversary proceeding, but if an adversary proceeding is necessary, then I think you follow through on it; I don't think you let that dissuade you if you feel that that is an appropriate remedy.

Senator NUNN. Do you believe that there is merit in pursuing Mr. Kirkland's willingness this morning, as expressed in reply to questions, to establish some form of liaison with the Department of Justice in these law enforcement areas?

Mr. DENNIS. Absolutely. I made a note of that, that the Department of Labor and AFL-CIO and Department of Justice should explore a liaison arrangement. I would be more than happy certainly to talk the issues out. I do not feel we lose anything by that, and I think to some extent perhaps that could better the understanding of what our motives are and what the goals are that we are trying to achieve. So I would certainly be in favor of that.

Senator NUNN. During his testimony before the Subcommittee, Mr. Edwin Stier, trustee of Teamsters Local 560, was asked if the trustees had received adequate assistance from the Federal law enforcement and the Department of Justice. He replied, quote:

> Institutionally, the Department of Justice and the Department of Labor have not geared themselves to provide the kind of support that a trusteeship needs; the kinds of resources these people are provided, the kind of help that I have needed just simply isn't there.

Do you have a comment on that?

Mr. DENNIS. No. I know Mr. Stier; I have met him, and I have been very impressed with his insights, so I would tend to take his statement very seriously.

I would only say that I feel that we are still in a learning situation and that the experience that the trustees have had I think should inform us in terms of perhaps what we should make provisions for insofar as perhaps the continuing needs of these trusteeships and any future ones that might be sought.

As I stated earlier, I think there are limitations in terms of the information we can provide. Some requests have been quite unreasonable. And for the funding, I think we should look primarily to the labor organization or the enterprise that is being supervised.

But I think that through these hearings and our own internal reviews in consultation with the Department of Labor and perhaps even with the AFL-CIO, we may come to a more mature understanding of what actually our responsibility is and what we really need to have in place to make these more effective.

Senator NUNN. Mr. Clarke, do you want to comment on that?

Mr. CLARKE. I agree totally with Ed's response. I think that it does require an ongoing dialogue so that they understand what we can and cannot do and that we also share with them to the extent that we can the knowledge that we have collected over the years in terms of the predicate investigations or the investigations and actions that have preceded their taking over the particular union.

As Ed mentioned, some of the requests that we have received from these trustees are things that we just simply cannot do either from a legal or practical standpoint. So it is an evolving process, and I do fully subscribe to the need for a continuing dialogue between the Department of Justice, the FBI, and the trusteeship.

Senator NUNN. Let me ask both of you this. Critics have pointed to Local 560 election results as a case in point where civil RICO was used and failed, the allegation being that the alleged Provenzano slate was elected into office by the rank and file members.

Do you believe that the Local 560 trusteeship was indeed a failure?

Mr. DENNIS. I don't consider it a failure, but I do think it is a fair measure of what progress may have been made under the trusteeship to determine whether or not those who were in fact the source of the corruption within the union still have influence within that union.

So therefore it would have been hoped that a completely clean slate of candidates would have been elected by the rank and file. I would certainly find that disappointing.

But I do feel that in this situation, we are going to have some patients who recover, and perhaps we will have some patients who will remain infirm despite our best efforts, and I do not believe that we should retreat from attempting to employ this procedure.

There is hope of, certainly, from what I have heard in terms of Roofers Local 30/30B; there are some signs that democracy may be establishing itself within that union, and it remains to be seen, of course, as to how successful it will be.

But in the sense that we need to continue to pursue these efforts, certainly 560 is not a defeat; it is something we will learn from, I am sure.

Senator NUNN. Mr. Dennis, I will not go into now, because we went into it in detail, but I would refer you and your staff to take a look at the testimony we had last week where we went into the question of what happens in the Teamsters settlement if the union delegates to the convention reject the constitutional amendments that have been agreed to.

There was a reference there to holding the union in contempt. It seems to me that you have got to think through that one pretty carefully, too. To pose an election and give people the choice of voting yes or no, but say that they are going to be held in contempt if they vote the wrong way is a new experiment in democracy.

Mr. DENNIS. Since you put it that way——

Senator NUNN. We would not want that to be the model for the Third World.

Mr. DENNIS. Point well taken.

Senator NUNN. So I think you need to look at that one.

Mr. Clarke, in 1986 this Subcommittee heard testimony about ongoing turf battles and lack of cooperation between the FBI and the Department of Labor Office of Labor Racketeering in the Cleveland area, and also to some extent nationally. Do you think these problems have been cleared up and clarified?

Mr. CLARKE. Specifically the Cleveland issue, I feel very comfortable that it has. I was out there just a few months ago and although the United States Attorney has since changed I got a very favorable reading from him as to the nature of the relationship. From the work that I have seen coming out of there, I think that that view is re-enforced.

In terms of organizational relationship, we can look to a case that received national attention last year with Angelo Commito, the DENTEX investigation, and subsequent indictments, a case that spanned a number of years. We had electronic surveillances taking place in eight of our field offices. That investigation was a joint investigation almost from its inception, and we worked very closely with the Office of Labor Racketeering.

In terms of the other components of the Department of Labor, we have had very good support from them in the documents that we have requested and that they have supplied to us as well as the support that they have furnished, especially in the recent Teamsters case.

So I would have to say that the situation is much improved.

Senator NUNN. Mr. Dennis, if I could shift to another area—and I don't want to slip you up on this one, and if you prefer to come back to it another day, I would understand that, because we have not discussed it with you—but I would like to ask you a couple questions about the strike force situation.

During last week's hearing, we received testimony calling for a greater role for the Department of Justice in the use of civil trusteeships, and it appears if the trusteeship mechanism is to work, the Department must devote more of its resources and expertise to these endeavors. At the same time, the press reports that the Attorney General is considering a drastic change to one section within the Department of Justice with the greatest concentration of expertise in labor racketeering and organized crime areas, and that is the Organized Crime Strike Force.

Has the Attorney General made that decision yet?

Mr. DENNIS. No, the Attorney General has not made the decision yet, and as you know, the matter is still under consideration. I am aware—although I have not seen the correspondence—that you have requested that he consult with you and other members of the Senate with regard to this issue, and I am confident that that will be done. But the decision has not been made.

Senator NUNN. Last year in testimony before the Subcommittee, Acting Assistant Attorney General John Keeney testified in behalf of the Department. His testimony praised the successes of the Strike Force Program which had eliminated mob leaderships in Boston, Buffalo, Chicago, Kansas City, Cleveland, Los Angeles, New Orleans and elsewhere.

Do you generally agree with his assessment of those successes?

Mr. DENNIS. Yes, I do.

Senator NUNN. At the same time, Mr. Keeney warned the Subcommittee that the war against organized crime is not over and, quoting him, "if we reduce our vigilance or ease the pressure, the criminals who make up the mob will grab back every inch we have taken away."

He goes on to say, "the challenge facing law enforcement today is to sustain our pressure on the LCN and at the same time prevent emerging organized criminal groups from acquiring a power base."

Do you agree with that assessment?

Mr. DENNIS. I certainly do.

Senator NUNN. The thing that occurs to me—we have very capable Strike Force people out there. They have acquired a lot of experience. The people in the United States Attorneys' offices also in many cases have experience, and they sometimes work together well, and sometimes they do not; I know there have been conflicts back and forth. But the United States Attorneys' office turns over a great deal just because of the political process.

The Strike Force gives more room for continued continuity and stability in many cases and probably always will.

We have got a lot of newly emerging organized crime groups. This Subcommittee focused on it 2 or 3 years ago; since then, we have got some newer groups. We have got the tremendous problem with not having enough prosecutors in major drug cases. We have got the tremendous problem of street gangs in various cities. And I think that, although this would normally not be a Federal responsibility, the very nature of these matters indicates that it is going to become more and more of a problem.

It seems to me that there is a case to be made for taking a careful look at these Strike Force people out there, while we have made considerable strides in the LCN area, and determine if from time to time they could be called on to take on some of these new functions and to give some relief to the U.S. Attorneys in these areas.

Are you taking a look at whether the strike force concept could be brought up-to-date more or less, rather than eliminating it altogether?

Mr. DENNIS. The issues that you raise are being considered. The proposal is not a new one; it is one that has been analyzed in previous administrations of the Department of Justice.

I would only make two points—and of course, I am not at liberty to discuss this in any great detail because the matter is still under consideration. But one is that the strike force personnel have done an outstanding job, I think, in terms of dealing with organized crime cases around the country, and that the proposal is not a proposal to eliminate the strike force program. The proposal under consideration is one that would move, really consolidate, the strike forces under the U.S. Attorneys in the respective districts, but recognizing that the unique role that these units have played will require some careful administrative handling so that we do not lose the effectiveness that we have realized in the past.

So I would not want the fact that the proposal is being seriously considered to be viewed indirectly as a criticism of the strike forces or of the attorneys who have worked in them.

The second thing is that in this area there are pros and cons; they are being weighed, and certainly, your statements today, I will relay to the Attorney General. But he will be contacting you, and you will have an opportunity certainly to make those views known to him directly.

Senator **NUNN**. I know that Senators Kennedy and Thurmond and Specter are all very interested in this, as well as others.

Mr. **DENNIS**. Yes.

Senator **NUNN**. Do you know Mr. Peter Vaira?

Mr. **DENNIS**. Yes. Peter was a U.S. Attorney under whom I served and I was very happy to serve under Peter.

Senator **NUNN**. And he was also Strike Force Chief, was he not?

Mr. **DENNIS**. In Philadelphia, yes.

Senator **NUNN**. So he had both roles.

Mr. **DENNIS**. Yes, he did.

Senator **NUNN**. Let me just share with you a letter I received from him on the question of merger. You may have seen it; he may have contacted you, too, but let me just share it with you.

He says here,

> . . . if the strike forces are merged into the U.S. Attorneys' Offices, they will exist in name only after 2 years. A U.S. Attorney always needs experienced attorneys to work on priority ["hot"] cases, such as local political corruption. If the U.S. Attorney is given the power to designate who works in the strike forces, it is only a matter of time until the best and most experienced attorneys will be working on the "hot" cases and the younger and less-experienced attorneys will be assigned to develop organized crime cases that require years of work and may be brought in another district. It has been my experience as U.S. Attorney that any task force that is situated in the U.S. Attorney's Office under the U.S. Attorney's control eventually is cannibalized for the best personnel for use on local matters.

Coming from someone who has had both roles, both hats, it seems to me that it is a fairly relevant statement, if not important statement.

Mr. **DENNIS**. Well, Senator, I certainly respect Peter Vaira's experience in this area. I was very happy to serve under him as an Assistant United States Attorney. I too was fortunate enough to follow him as U.S. Attorney in Philadelphia, and I have also been a section chief in the Criminal Division before becoming Assistant Attorney General. And I think——

Senator **NUNN**. We have followed your career with great interest.

Mr. **DENNIS**. Well, it was not an advertisement.

Senator **NUNN**. You have had a great career.

Mr. **DENNIS**. But I do want to say that first of all, those are legitimate concerns, and that I would take it that any changes that would be made would have to take those into account and would have to ensure that that risk was avoided.

Senator **Nunn**. Thank you very much.

I have got a series of letters here that have been written to me, and I would like to share those with you in your deliberations.

Mr. **Dennis**. I would be happy to.

Senator **Nunn**. Mr. Clarke, do you have any other comments?

Mr. **Clarke**. No, sir.

Senator **Nunn**. Do you want to give us your opinion on the strike force business?

Mr. **Clarke**. I think I best give my opinion to the Attorney General.

Senator **Nunn**. Okay. I respect that.

We thank both of you for appearing, Mr. Dennis and Mr. Clarke. We look forward to continuing to work with you in this relatively new area, which is going to require thinking on the part of all of us to have it mature into the kind of tool that is both effective and fair. I think that is what we are all seeking.

We appreciate your being here.

This morning, we intend to release a report prepared for the Subcommittee by the U.S. General Accounting Office on the Organized Crime Strike Force Program. The report addresses the issue of coordination and planning by the Department of Justice's Organized Crime Program. Although it does not specifically address the recent controversy concerning Attorney General Thornburgh's proposal to merge the strike forces with the local U.S. Attorneys Offices, it does raise a number of important issues about the advisability of doing so. This is the third GAO study commissioned by the Subcommittee on the Department's Organized Crime Program. The prior 1977 and 1981 studies were instrumental in promoting needed improvements by the Department.

I anticipate that this most recent study will add to our understanding of this issue and help focus the ongoing debate on the proper role of the strike forces within our Nation's battle against organized crime.

I recommend this study to my colleagues as well as the Department of Justice in order to assist them in their review of this important issue. We will make this report available to you and the public this morning. We will also have about 5 or 6 questions for the record; we will not have very many for you, but we appreciate it.

Thank you for being here.

Mr. **Clarke**. Thank you, Mr. Chairman.

Mr. **Dennis**. Thank you, Mr. Chairman.

[Whereupon, at 1:13 p.m., the Subcommittee was adjourned.]

APPENDIX

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
CHAUFFEURS • WAREHOUSEMEN & HELPERS
OF AMERICA
AFL-CIO
25 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001

OFFICE OF
• WILLIAM J. McCARTHY •
GENERAL PRESIDENT

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SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS
MAY 15 1989
MAJORITY OFFICE

May 3, 1989

Eleanore J. Hill, Chief Counsel
Permanent Subcommittee on Investigations
United States Senate
Committee on Governmental Affairs
Washington, D.C. 20510-6250

Re: Federal Government use of Trusteeships
Under the RICO Statute

Dear Ms. Hill:

In response to your letter dated April 27, 1989, I would state as follows:

1Q. Mr. McCarthy, given your commitment, as stated in the consent judgment, to a corruption-free IBT, what do you, as General President, intend to do in the future to achieve that goal - or do you intend to rely solely on the actions of the officers appointed by the court under the consent judgment?

1A. It is my intention to cooperate fully with the Court Officers and to simultaneously enforce our International Constitution consistent with the actions of the Court Officers and the law.

2Q. Mr. McCarthy, have you been satisfied with the cooperation of Teamsters officials with law enforcement authorities, both in this case and in others?

2A. I am not aware of any specific situation wherein a Teamster Official has failed to cooperate with law enforcement authorities. I would encourage full cooperation if the circumstance arose.

3Q. We heard testimony on Thursday, April 6, on the operation and effectiveness of RICO trusteeships that were imposed in Teamsters Local 560 in Union City, New Jersey, and Teamsters Local 814 in Long Island City, New York.

In your view, was there a problem with corruption and organized crime influence in those locals prior to those trusteeships being created? Do you think it was appropriate, in those cases, to appoint trusteeships? If not, what were the alternatives? Do you feel that the trusteeships in those cases are successful?

3A. I do not have any direct knowledge of the facts and circumstances of these cases so I can't respond to this question of my own personal knowledge. I am opposed to Government trusteeships under these circumstances. I believe enforcement of existing laws and statutes is the appropriate remedy in this situation.

4Q. The agreement calls for the appointment of three officials to be proposed by the Government and the union defendants. What procedure will you follow in selecting those individuals?

4A. Our legal counsel are presently meeting with the Government representatives. It is my directive that they select the best and most capable persons available to fill these positions.

5Q. What type of background would qualify someone to be selected as Independent Administrator? As Investigations Officer? As Election Officer?

5A. The Administrator should be a fair person of good reputation and possibly with a judicial or governmental background. The Investigations Officer shall have some law enforcement and prosecutorial experience as well as experience as a defense counsel. The Elections Officer should have been involved in the conduct of union elections on as wide a scope as possible, hopefully on a National level.

6Q. An amendment to Section 6(a) of Article XIX gives the General President and/or the General Executive Board the power to suspend a member or officer of the IBT who is facing pending criminal or civil charges. In your opinion, was this amendment needed? Had prior IBT officials been prevented from suspending officers or members charged with wrongdoing in the past?

6A. Yes, I believe this amendment could be effective in certain situations such as unquestioned embezzlement or theft, should that circumstance ever arise. I have no personal knowledge concerning any such matters prior to my election as General President.

7Q. Article IV, Section 2 of the IBT Constitution is to be amended to include the following: "No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity . . .". What is the importance of this amendment?

7A. This amendment keeps employers, directly and indirectly, from being involved with our elections and is consistent with present law in this regard.

8Q. The consent judgment confers to the administrators the same powers which are currently possessed by the General President and/or the General Executive Board. Will these powers allow the administrators to use the internal IBT machinery to discipline locals, joint councils, etc., as well as members, without going to Federal court? Do these powers, in essence, allow the IBT to rid themselves of corrupt elements? If so, were they used to any degree by the IBT prior to this suit?

8A. Yes, that is my understanding, i.e., to use the existing IBT procedures to accomplish their goals. I believe that to the extent "corrupt elements" exist, those procedures will be effective toward their elimination.

9Q. Will the Independent Review Board, to be established after the 1992 IBT election, possess the same powers as the administrator? Will it be an effective deterrent to LCN influence?

9A. No, the Independent Review Board's authority is specifically defined in Section 6(a) at page 19 of the Court Order. I am optimistic that it will play an effective role in being a deterrent to any improper or unlawful influence.

10Q. As I read the consent judgment, there is no termination date for the Independent Review Board. What is your understanding as to the length of time that this board shall remain in place?

10A. It is my understanding that the Independent Review Board provision will be presented to the 1991 Convention for incorporation into the IBT Constitution and then have an indefinite duration in its applicability.

11Q. Mr. McCarthy, The Boston Globe printed an article on March 28, 1989, stating that the IBT recently awarded an estimated $3-million-dollar contract to Windsor Graphics for printing the monthly IBT publication, The International Teamster. The article reported that Windsor Graphics is owned by your son-in-law, Thomas Joseph Treacy, and is registered out of Treacy's home. If the contract, as reported, was legitimately bid, does it not give the public and the rank and file the appearance of nepotism? Is it appropriate to have an IBT General President's relatives eligible for IBT contracts?

11A. By causing this contract to be put out for sealed bid, the net result was a savings for the IBT of close to $100,000.00. Furthermore, my son-in-law, who was the lowest bidder, is not the printer, as such, but is the marketing representative who puts the whole product together, a procedure in which he has many years of business experience. The contract was indeed legitimately bid and further, I don't believe that a competent, qualified, experienced business man should be disqualified from doing business with the IBT merely because he is related by marriage to a son or daughter of a member of the General Executive Board, including myself.

I look forward to reviewing the Committee Report recommendation when it is available. Your cooperation is appreciated.

Sincerely,

William J. McCarthy

William J. McCarthy
General President

WJM:jgp

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ADDITIONAL RESPONSES FOR THE HEARING RECORD

BENITO ROMANO
United States Attorney
Southern District of New York

Q. The consent judgment provides for the election of the IBT President, General Secretary-Treasurer, and Vice Presidents by "direct rank and file voting in secret ballot" (page 14 of agreement). How does this differ from past IBT procedure and how significant is this change?

A. The IBT's past procedure for electing officers involved conventions at which delegates (the vast majority of whom went to the conventions automatically as local IBT officials) essentially ratified by open voice vote incumbent slates that ran unopposed or with only token opposition. Between conventions (which were held once every five years), the sitting 18-member General Executive Board voted to fill vacancies in the office of IBT President, Secretary-Treasurer or Vice President. Hence, there has never been a direct, rank-and-file, secret ballot election of IBT officers. This is therefore a very significant change, especially since the Government alleged in this case that the IBT's past procedure was susceptible to and the object of organized crime influence.

* * *

Q. Mr. Romano, there have been many criminal RICO prosecutions, and not all of them generate a companion RICO trusteeship. What standards do you use in determining whether there is a sufficient racketeering predicate to justify a suit seeking a trusteeship?

A. This office looks at the totality of the circumstances to determine whether organized crime corruption has been sufficiently pervasive to warrant the imposition of a trusteeship over the corrupted entity (whether it be a union or business). Such civil cases are often preceded by one or more criminal cases which have established beyond a reasonable doubt that organized crime has corrupted these unions and businesses for an extended period. Such was the case here. Since 1970, the Government has brought more than 200 cases in which more than 340 persons (many of them Teamsters officials) have been convicted of Teamsters-related crimes, yet organized crime has remained a powerful force within the IBT.

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Q. Mr. Romano, what type of assistance or support from the Federal law enforcement community and/or the Federal Government will be available to ensure the success of this administratorship?

A. This office and the Department of Justice are committed to ensuring the success of this administratorship and will continue to devote substantial resources to this project. Moreover, the Director of the Federal Bureau of Investigation has assured me that the Bureau intends to provide its full support to the court-appointed officers.

* * *

Q. What type of background would qualify someone to be selected as Independent Administrator? As Investigations Officer? As Election Officer?

A. Since my testimony, United States District Judge David N. Edelstein has appointed the three court officers. Each of those appointees brings to the job an impressive background. The Independent Administrator is Frederick B. Lacey, formerly a United States District Judge and United States Attorney in New Jersey and currently a partner at LeBoeuf, Lamb, Leiby & MacRae in New York. The Investigations Officer is Charles M. Carberry, formerly an Assistant United States Attorney and Chief of the Securities Fraud Unit in this office and currently a partner at Jones, Day, Reavis & Pogue in New York. The Election Officer is Michael Holland, formerly General Counsel to the United Mine Workers (one of the few unions that holds direct rank-and-file elections of officers) and currently a partner at Cornfield & Feldman in Chicago.

* * *

Q. Having gone through the negotiations in this case, do you have any recommendations for legislative revisions in this area?

A. In the area of Government enforcement, the civil RICO statute permits broad equitable remedies, all of which I urge be retained.

Q. Discuss the significance of the amendment to section 6(a) of Article XIX of the IBT constitution that changes "Any charge based upon alleged conduct which occurred more than one year based upon alleged conduct which occurred more than one year prior to the filing of such charge is barred and shall be rejected by the Secretary-Treasurer, except charges based upon the non-payment of dues, assessment and other financial obligations" to provide for a five-year period that runs from the discovery of the conduct. What are the ramifications of this amendment?

A. The amendment eliminates a restrictive provision of the IBT's constitution that limited potential disciplinary cases through the device of a one-year statute of limitations running from the date that the conduct occurred. This approach made it difficult, if not impossible, to discipline past corruption. The new provision provides for a more realistic and reasonable limitations period (five-years from date of discovery), while, at the same time, permitting discipline for past offenses.

* * *

Q. Another amendment to section 6(a) of Article XIX gives the General President and/or the General Executive Board the power to suspend a member or officer of the IBT who is facing pending criminal or civil charges. In your opinion, was this amendment needed? Had prior IBT officials been prevented from suspending officers of members charged with wrongdoing in the past?

A. This amendment was necessary for the following reason. Prior to the amendment, the IBT constitution expressly provided that no disciplinary action could be taken against an individual facing pending criminal or civil charges. Hence, IBT officials under indictment necessarily remained in office. Now, such indicted officials may be suspended pending resolution of charges.

* * *

Q. Article IV, section 2 of the IBT constitution is to be amended to include the following: "No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity ... " What is the importance of this amendment? Does it eliminate a potential avenue of LCN influence?

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A. That provision deals with the problem of unlawful employer influence in union elections and only prohibits contributions from employers, whether contributed directly by the employer or indirectly through the subterfuge of an employer trust, employer foundation, employer representative or "any similar entity" (i.e., any similar employer entity). The provision addresses campaign financing issues in light of the IBT's new electoral process designed to ensure democratic elections free of La Cosa Nostra influence.

* * *

Q. Mr. Romano, according to the agreement, all current as well as all future members of the IBT General Executive Board are permanently enjoined from any association with any LCN family, member, or associate, as well as from committing any acts of racketeering. How will this permanent injunction be enforced? Will it be enforced by the Department of Justice or the IBT trustees?

A. The injunction will be enforced by this office. In addition, the Administrator has the right to discipline any IBT official for associating with La Cosa Nostra figures or committing racketeering acts.

* * *

Q. Will the Independent Review Board, to be established after the 1992 IBT election, possess the same powers as the administrator? Will it be an affective deterrent to LCN influence?

A. The Independent Review Board has very similar powers to the Administrator and Investigations Officer in terms of investigating and disciplining corruption within the Teamsters. Therefore, we are hopeful that that board (comprised of one person to be selected by the Attorney General, one by the IBT and one by agreement of the other two designees) will prove to be an effective deterrent to La Cosa Nostra influence.

* * *

Q. As I read the consent judgment, there is no termination date for the Independent Review Board. What is your understanding as to the length of time that this board shall remain in place?

A. The Independent Review Board will be a permanent IBT fixture that cannot be altered or eliminated without prior approval by the Government and/or the Court.

STATEMENT OF
ANTHONY LOUIS GILIBERTI
BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARINGS ON
FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS
UNDER THE RICO STATUTE

My name is Anthony Louis Giliberti. I am the former vice-president of Teamsters Local 814 (the International Brotherhood of Teamsters, Warehousemen and Chauffeurs).

I was first arrested when I was 16 years old; I was charged with carrying a handgun. My father went to Frank Costello, of the Genovese La Cosa Nostra family, for help. My father was a second cousin of Costello's. Costello provided me the name of his friend, Pete Pongatore, who worked for several judges in the New York Court system. I received a three-year sentence and was sent to Hampton Reformatory in Upstate New York. My last four months were spent at Rikers Island in New York City. In 1941, I was arrested on an attempted robbery charge and spent another 18 months in prison. In 1943, I was again arrested on assorted armed robbery charges and was sent back to prison. I was finally released on December 3, 1952.

While I was in prison, my sister, Mildred, married Carmine Rastelli in 1947. Carmine Rastelli is the brother of Phillip Rastelli, who eventually became the boss of the Bonanno La Cosa Nostra family.

After my release from prison, I joined Teamsters Local 814, as my family was in the moving and storage business. During the next seven years, I worked with several companies and went into business with my father. After our business venture failed, around 1960, I went to work for Weisberg Moving and Storage, New York, New York.

In 1962, John Eck was elected president of Local 814. Shortly after Eck's election, he negotiated a contract for our Local that the majority of the rank-and-file members were not happy with. Several of us, Sal Aiello, George Dwyer, Eddie McCabe, Anthony Cantatore, and others whom I do not recall at this time formed the Committee of Ten. We started a petition drive urging Eck to withdraw the contract. Eck refused, and the contract went through

out ratification by the rank-and-file. After this time,
I ecame a Union activist. The Committee of Ten began to
pire to defeat Eck in the next election.

In 1964, Local 814 had a lot of work at the
d's Fair. Nineteen sixty-four was also an election year
Local 814. As one of the Local's "activist," I was very
ive in enforcing the rules and regulations at the World's
r work site. Eck didn't always agree with me, and this,
addition to my backing of Aiello for the Union
sidency, strained my relations with Eck. In February,
4, Sal and I met a close friend of Phil Rastelli's, who
also an organizer for the Longshoremen's Union, coming
of the Local. The organizer told me that he was a
end of Eck's and had been visiting Eck at the Local.
ing him, however, scared Aiello, who asked me to find out
"anybody" was into 814. Aiello was afraid to run for
on office if there was an organized crime group which
trolled 814.

That evening, I called Carmine Rastelli at his
ne in Greenpoint, Brooklyn, to request a meeting with
illy Rastelli. At the time, Philly Rastelli was a capo,
captain, in the Bonanno LCN family. That evening, I met
illy in his car outside Carmine's house in Brooklyn, New
rk. I told Philly about seeing his friend coming out of
4, about Aiello's campaign for the 814 presidency, and of
ello's reluctance to run after having seen his friend. I
ked Philly to find out if "anybody" was into 814, as we
dn't want to step on "anybody's" toes. Philly told me
at he would look into the matter.

A week later, I met with Philly again, at which
me he told me, "Nobody is there." He also wanted me to
ep him advised as to "how we were doing," and if Aiello
s "with anybody." I told him that I didn't think that
iello was "with anybody," meaning that he was not tied to
y member of La Cosa Nostra.

While we were working the World's Fair, I received
call from Aiello. A person called "Hill" was up from
lorida, making noises that "people" from Florida were
ooking to get into the unions involved in the Fair. Aiello
anted me to reach out to Philly to see if this Hill was
ith "anybody." I went to see Philly and told him what was
oing on. Philly told me to confront Hill and ask him who
e was with. A day or two later, we met Hill at a bar in
he hotel where he was staying. I asked him who he was
ith, and said that he had better watch out for them,
ecause he was in trouble. Hill responded by saying that he
asn't with anybody and that he didn't want no trouble. The
ext day, Hill left for Florida.

In March, 1964, Philly told me to bring Aiello to a bar in Lefrac City, Brooklyn, New York. When Sal and I arrived, Philly asked Sal if he were with anybody, or if he had any "friends." Aiello said, "No," to which Philly said, "Well, you're with me. If you got any problems, get a hold of Tony." Aiello was confused; after we left the meeting, he asked me what Philly was talking about. I told Aiello, "You belong to him (Rastelli), body and soul," and, "Now you got protection, and you won't have any more problems." Aiello was visibly shaken by this explanation. I told him that he had reached out to Philly twice for favors, and that favors weren't free.

On December 6, 1964, Aiello defeated Eck and was elected president of Local 814. Also elected were Charles Martelli (trustee) and Jack English (delegate). I called Philly to let him know that his man had won the election. Philly asked me to meet him on December 8.

On that day, Philly and I drove to Aiello's home on 148th Street in the Whitestone section of Brooklyn. Philly wanted to meet with Aiello. When we arrived, I went to get Aiello. Aiello was entertaining Neil DeLuca, Tommy DeRosa, and their wives. DeLuca was a friend of Earl Coralluzzo's, a soldier in the Genovese LCN family. When I told Sal that Philly wanted to see him, Sal asked what did he want. Sal went crazy and told me that he wouldn't meet with Philly. I said, "He wants to talk to you. He wants you to come out to the car and talk to him." I told Sal that he had made an agreement with Philly and that he had better see Philly. I said, "Hey, Sal, take it easy. Look, the guy did you favors. You asked for favors. Got favors done." I said, "You know you were committed to him." Sal said that he wasn't going.

I went back and told Philly what Aiello had said. Philly told me to tell Sal that he'd better come down, or "he has a problem." I went back to Aiello and passed on Philly's message. Aiello then agreed to meet with Philly.

Sal Aiello finally calmed down, and he went out to Phil Rastelli's car with me. Phil was angry, and he wanted to know why Sal wouldn't come out to see him. Phil Rastelli said to Sal, "What do you mean, you didn't want to come out here? What are you balking about?" Sal said that he had a lot of problems and that he owed a lot of money to a lot of people who were pressuring him. Philly said that everybody wants something and that he wasn't interested in what anybody wants or Sal's problems. Philly said to Sal, "You had a problem when you started to run for the Union. You came to me through Tony. He recommended you. He brought you here. We did everything you wanted when you had a problem. I resolved your problems for you. Now, you going to play this game? I'm going to tell you, Sal, you want to get yourself in trouble, you keep playing games with me." Sal told Rastelli that he was having trouble and that he needed $1,000. Phil Rastelli responded by telling Aiello that he didn't need no money and that Aiello was to start reporting to him. Philly also told Sal that if he needed his help, all he had to do was get a hold of Tony. Phil Rastelli told Sal not to play games with him and that the next time he (Philly) called him, he had better come.

After this meeting, Aiello got scared and started running around New York City looking for help. He contacted the Dutch and Jewish Mobs, but both of these groups turned him away. Aiello was attempting to keep away from Rastelli.

In March, 1965, Aiello tried to sell a bad contract to the Union. Along with several other members, I tried to get Sal to withdraw the contract. When he refused, we pulled a strike against Aiello's wishes. The strike was a success, and we won a better contract. Due to this action, I became, in Aiello's eyes, his enemy.

During this time, Philly was attempting to arrange a meeting with Aiello to set up their Union agenda. Philly wanted to see how much of a "piece" he was entitled to. After the strike, Aiello went to DeLuca, who arranged a meeting between Earl Coralluzzo -- a Genovese LCN soldier -- and Aiello. Aiello was greedy and thought that Coralluzzo would take less than Rastelli.

Later that year, Philly called me to a meeting at the 100 Club. When I arrived, I met Willie Rodini at the bar. I saw Philly at a table with three people. Philly came to me and told me that these people wanted to ask me some questions. He told me to treat them with respect and just to answer their questions. I went to the table with Philly, and the three gentlemen asked me if Aiello had told me if he had any "friends." I told them, "No." They asked me four or five questions and then dismissed me. I went back to the bar.

A little later, Philly came to me and said, "We lost it, we're out," meaning that we were out of the Union. I told Philly that I needed my job. Philly went back to the table and discussed my problem with the men who had questioned me. He came back to me and told me that I could keep my job, but I had to keep my mouth shut and mind my own business.

I later learned that these men were members of the Genovese and Gambino LCN families. Coralluzzo had raised a "beef" and said that Aiello was with him and Philly was trying to take Aiello away. These men ruled in favor of Coralluzzo. Shortly after this meeting, Coralluzzo became an organizer in 814.

When I returned to my job, I didn't keep my mouth shut, and I continued be a rebel and a source of aggravation for Aiello. In 1967, Philly got a hold of me and told me that Coralluzzo was looking to "hit" me. He told me to take a vacation. I took Rastelli's advice and relocated to Florida. Seven or eight months later, I wanted to return to New York. I contacted Philly to see if it was all right to come back. Philly told me to come back and said that I could return to my job, but that I had to keep my mouth shut and mind my own business. Philly told me to listen to Coralluzzo; he said, "Do whatever Earl tells you. Do it like I was telling you to do it." Philly told me that Earl wanted to meet with me, Tony Cantatore, and Joe Denetri. Philly said that Earl was going to put us in the Union as business agents. I also found out that I was going to be hit, because I was causing problems with the men. I had made up 2,500 "Wanted" posters with Aiello's picture on them; this got Earl and Aiello mad at me, even though I didn't distribute the posters.

Cantatore and Denetri were made business agents shortly after our meeting with Coralluzzo, but I was still on the "outs" with him and Aiello. I went back to work at Weisberg Moving and Storage and, in a short time, was made assistant shop steward. In March, 1968, I was elected shop steward, and Vinnie Bracco was an elected Union trustee.

In December, 1968, Weisberg was having financial problems. The president of the company, Frank Morelli, asked me to remove equipment and materials from Weisberg so that creditors could not get a hold of them. I obliged him and moved a lot of equipment to Lanahan Moving and Storage. Morelli also asked me to ask Aiello not to throw a lien against Weisberg, as Weisberg owed the pension plan about $25,000. Morelli wanted to sell Weisberg to Nova Industries and was afraid that the lien would hurt the sale. Aiello agreed to hold off on throwing a lien on Weisberg, and the sale to Nova went through.

About two months later, Aiello asked me to organize the white collar workers at Nova. Philly okayed the request but said that in exchange for my working to organize the Nova white collar workers, Aiello had to give me a position in 814. Aiello agreed to the proposition. I organized the workers but was not given the business agent position. At an Executive Board meeting, Coralluzzo told the Board that I was an ex-con, and they voted not to hire me as a business agent. Jack English had come to me the day before and asked me if I were ever in the can. I told him I was up on an armed robbery rap. English told Earl, who then used it against me. It was Coralluzzo and Aiello's way of keeping me out of the Union.

In 1969, Vincent Bracco, who later became a Bonanno associate, came to me and told me that Coralluzzo was screwing me. He told me that he hated Aiello and Coralluzzo and asked me if he could meet my man, meaning Philly Rastelli. I arranged a meeting in a pizza parlor on 8th Avenue in Brooklyn, New York. Present at this meeting were: Philly; Vincent Bracco; Jimmy Rotundo, who in 1981 was made a member of the Genovese LCN family; Willie Rodino, who is a Bonanno family associate; and myself. Rodino and Rotundo wanted to meet Philly because he was "moving up." At the meeting, Philly told Bracco that he was screwing me and that he owed me a position in 814. Bracco told Philly that he, Bracco, was with him, but Philly could have nothing to do with the Union. He also said that I would get a position with the Union. Philly told Bracco that he wanted him to meet some people. The next day, Philly introduced Bracco to some other "wiseguys." At that time, Bracco told these "wiseguys" that he, Bracco, was with Philly. Philly had done this to ensure that Bracco would not turn out to be another Aiello. This was Philly's move to get back control of Local 814.

Philly instructed Bracco to bring Charlie Martelli to see him. Martelli, who was just a Bonanno flunky for Phil Rastelli, met with Philly at which time Martelli told Philly that he was also with him. At that time, Philly instructed Martelli and Bracco to set up a meeting so that they could plot against Aiello and devise ways to get cash out of their control of the Union. Philly was looking to take over the 814 without starting a war with the Genovese LCN family.

Aiello had been screwing everybody. He had been "going South" with Christmas gifts, liquor, and cash which should have been shared with everybody. I went to Phillip Rastelli with this problem. Philly said that all he wanted was his piece of the action, that it was understood that he was the boss of the Local and that he wanted to avoid a war.

Bracco and I went to see Coralluzzo and showed him how Aiello was screwing everybody, and we asked if we could dump Aiello. Coralluzzo said that it was okay to dump Sal, as long as we realized that Coralluzzo was still going to get his "piece" from the Union. We told Sal that he was "out" and that Coralluzzo had okayed it. Aiello agreed to step down, and we gave him a trustee position out on Long Island. Later, word got back that Aiello wasn't doing his job, and the Executive Board got him out of the trustee position on a Union disability pension.

In 1973, Vinnie Bracco became president of Local 814, and I was made a trustee. As a trustee, I became intimately involved in the ways the officers and trustees would "shake down" businessmen and made money with the Union.

I knew that bid-rigging was always done in the Union. During the 1960s, a group, called the 5 percenters, was created among the moving businesses in New York City. The 5 percenters divided all of the local, state, and Federal moving contracts among themselves. The business which was awarded the contract would receive favors from Local 814 in return for 5 percent of the contract price. The Union would allow the business to use non-Union workers or pay Union men "off the books." The company would pay all workers lower wages and not be required to contribute to the Union's pension and welfare funds.

I knew the following companies to be 5 percenters:

Dayhill
DeLuxe
Guardian
Wagner
Dunright
Siskind
Letto
Westbury Transportation
Viking
Schwartz
Washington Movers

Each of the above businesses had an LCN sponsor. The rules of the bid-rigging were enforced by LCN.

When Bracco was elected president of Local 814, he and others had a meeting with Philly Rastelli where they created rules as to how a shake was to be split. Under Aiello, anyone who scored a "shake" would give Aiello a piece, with the rest going into a kitty. The kitty would be whacked up later. Philly stopped that method, saying what's to stop a guy from pocketing a score. Philly allowed everybody to take a piece of a "shake," with the rest going into the kitty to be "whacked up" among everyone. For example, if I scored $10,000, I would take $2,000, Bracco would get $2,000, Martelli would get $2,000, with the rest going into the kitty. When the kitty would get whacked up, Philly Rastelli and Joey Massina would get a piece; a piece would go to a slush fund; and the remainder would go to the rest of us in the Local. Eventually, this system went sour, as everybody got greedy and started "going South" with the money.

Local 814 had three different funds, or kitties, where money generated from our illegal activities was placed. The first was the slush fund. This fund was used for payoffs, parties, campaign debts, and legal fees. Secondly, there was the monthly kitty, where shake money was held before it was whacked up. The third kitty was a Christmas fund. This is where Christmas gifts, aside from shakes, were placed to be whacked up amongst ourselves later. The funds were kept by Martelli in his office.

In 1973, Philly put his brother, Carmine Rastelli, into Local 814, as a shop steward, and we had to give him a position in Nassau Coliseum, Nassau County, Long Island. This caused some dissension among the 814 hierarchy. This later caused problems, as Carmine was trying to "shake" businesses, such as the New York Islanders hockey club.

During "shoot the puck" promotions between periods in Islanders hockey games, a car, which is awarded as the grand prize, is driven out onto the ice. Carmine demanded to be paid every time the car was driven onto the ice. I forced the Islanders to pay Carmine $50 on the side, and I told Carmine to pay the taxes on it. To my knowledge, Carmine didn't pay any taxes. Carmine told me that this $50 is going to his brother Phil Rastelli. I knew that the Islanders would report it to the Government as wages paid on a W-2 form.

Back in 1968, Coralluzzo asked me to put together a "flying squad." A flying squad is a group of Union rank-and-file members that I used to do whatever damages on the street during the strikes. I also had a group that consisted of Ray Weans and a big Spanish guy to do whatever damages I needed done, whose activities during a strike included setting fire to non-Union trucks, slashing tires, and burning down the business establishments of companies. The Union would pay the flying squad for their work. One of my main men on the flying squad was Ray Weans, who performed most of my arsons for me.

Local 814 committed arsons on a regular basis during strikes. There is no better way to get your point across to a company than to burn its trucks or facilities.

Many of the Union's problems with companies would occur when a company would "walk away," that is, stop using Union personnel in the middle of a major job. For example, during negotiations with the moving and storage industry, a number of the companies in The Bronx and on Long Island were looking for relief from the Union, which we refused. But when Compass Van Company refused to sign the contract, we put them out on strike and held them out. During this time, Phil Duran's car -- Duran was an 814 business agent -- was burned up because he had a problem with most of the companies in The Bronx and on Long Island.

In retaliation, we put sugar in the Compass trucks' gas tanks. The Compass boss threatened to have my car burned. I went back to Nicky "Glasses" Marangello and Bracco to got the okay to burn Compass down. Nicky told me to put guys on the payroll to do the job. I hired Weans and

Chris Langufo to do the job. At first, Weans wanted $2,500 to do the arson. I told this to Philly, and he told me to tell Weans, "I get guys killed for less than that." Philly authorized me to pay $500 and Langufo $300. I gave Weans some walkie-talkies, and he burnt up Compass's trucks parked at their warehouse.

I went over to Compass to help Phil Duran, and one of the Compass bosses spotted me parking my car. He told me not to leave my car because it may get burned up. Phil Duran took all the men who had been picketing Compass and sent them to a company called Pan Am Movers. Compass went out and hired non-Union people to do his work. Vinnie Bracco called me and told me that we had better do something about this. I asked Bracco what he wanted me to do, and he said burn the company out.

In 1979, while Phil Rastelli was in jail and right after Carmine Galante was shot to death, I was out at the Coliseum and discussing the problems we were having out there with Carmine Rastelli. I told Carmine that we could straighten things out with Nicky Marangello. Carmine told me that Nicky Marangello was supposed to be killed with Galante. Right after that, Marangello stepped down as the Bonanno's contact in 814. After Marangello stepped down, the Bonannos put Phillip Giaccone and a guy by the name of Chubby in 814. In 1981, Giaccone was murdered in New York.

In 1980, Joe Massina, a capo in the Bonanno Family, was running 814 for Philly, as Philly was in jail. Massina was out to "break our shoes." He made us meet him every Saturday, so that he could keep tabs on us, or keep us in line.

One time, in 1980, I used Ray Weans and Chris Langufo as members of the flying squad to do a highjacking. I had a meeting with Warren Annunziato (Nunzi), President of Independent Local 91, out of Long Island City, New York, at the Pan Am Hotel. He was not an associate or a made man with any LCN family. At this meeting, Nunzi told me that he had paid Johnny Konavitch, an 814 shop steward at the Chelsea warehouse, $5,000 to deliver 25,000 stolen dresses to him. Nunzi was supposed to pay Konavitch a total of $25,000 for the dresses. Nunzi complained that he had not received the goods. Later, I went to see Konavitch, who told me that he had spent the $5,000 but couldn't get his hands on the dresses. The dresses were being stored in a warehouse in West Harlem, 127th and 128th Street on the west side. I hired Roy Weans to highjack the dresses for $2,000. Weans and a few other guys held a guard at gunpoint and took the dresses out of the warehouse. After the dresses were delivered, I had to call Nunzi to collect the money for Konavitch. I eventually got another $10,000 from Warren Annuziato. I gave the money to Konavitch. Konavitch gave me $500 for helping him. He also gave $2,500 to Bracco.

Konavitch got into trouble with Massina because he was badmouthing Bracco to Rodino. Konavitch told Rodino that Vinnie was pocketing $5,000 out of each hotel shake down that he okayed. Hotels, when they would move items, would normally pay a Union man $16 or $17 an hour. For a $10,000 shake down, we would let them pay the Union men $6 or $7 an hour, with no benefits paid into the funds. Konavitch set up two hotel deals; one was with a hotel in Westchester County, New York. Bracco used his nephew Joey Bracco to do the move at the reduced rate. Bracco got $10,000, but told us that he only received $5,000.

There were at least three or four other hotels where local 814 made deals with the owners for a $10,000 shake down. One of the hotels was the Carlisle in New York City. Rodino told Carmine Rastelli what Bracco was doing and took their beef to Massina.

In 1980 or 1981, Massina held a meeting at a bar on 70th Street in Brooklyn, New York. At that meeting were Massina, Konavitch, Bracco, Carmine Rastelli, Marty Rastelli, Tony Cantatore, and myself. Konavitch told his story of how Bracco was cheating. Massina told everybody that he didn't believe Konavitch, and the matter was dropped. I later learned the reason that Massina had discredited Konavitch: He had been getting a piece of what Bracco was pocketing.

Bracco soon realized that I believed Konavitch, and I knew that he was cheating. In 1982, he set me up: He ordered me to do an arson on Gold Van Lines. Massina had told me not to use Weans for any more jobs, as they thought that he was a "rat." Therefore, I hired a kid to do the job for $500. A few days later, I read about a fire at Gold Van Lines that had been put out without its doing any real damage. I called the kid in and gave him the $500. To my surprise, the kid told me that he had nothing to do with the attempted fire. I told him to keep the money and do the job. Two days later, I got a call to see Massina. I went to see Massina with Vinnie Bracco at the deli on 58th Street. When I got there, Massina slapped me around. Massina said, "I told you not to use Weans." I told him to hold it, that I didn't use Weans. Massina said that he had told Weans that if he did any more work for 814, he would kill me and Weans. I knew then that Massina and Bracco were looking to get me out of 814, as I was becoming a problem to them. Massina told me that Marty Rastelli had told him to break my legs. Massina ended the conversation by telling me that if he found out that I had hired Weans, he would kill me. I should have told him that Bracco and Martelli had ordered me to firebomb Gold Van Lines, but I didn't. I had learned from Charlie Agar that Martelli had set me up.

In 1982, I went to Marty Rastelli's daughter's wedding. I was seated at the Union table with Cantatore. The odd thing was that a stranger was placed at our table. Carmine Rastelli told me that it was Philly's bodyguard. I knew that I was being set up, as they never put a stranger at the Union table. That evening, Marty Rastelli asked me if I had told anybody that he had told Massina to break my legs. I told him, "No," and that I hadn't hired Weans to do the Gold Van Lines job.

The Wednesday after the wedding, I received an anonymous phone call. The caller said, "Just listen. You shot off your mouth and told your sister. You're in trouble." Shortly after this call, Louis Rastelli started calling me, trying to get me to come out to see him on Long Island. This was unusual, as we weren't friends and rarely did business. I started to have an uneasy feeling that I was going to be hit. So, I changed my routine: I left home early and changed the routes I took to work. After a week or so, Louie Rastelli stopped calling me.

While I was in my office, Bracco stopped by. I asked him where he had been. Bracco told me that he had just come from seeing Marty Rastelli and that Marty had told him not to bring that rat bastard -- me, that is -- with him anymore. I told him and Marty that if they wanted me to quit, to just tell me. I told Bracco that they didn't have to worry about me talking. After this conversation, I knew that the Rastellis were looking to hit me and that Bracco knew that I was in trouble.

On July 14, 1982, at 5:30 a.m., I was walking out of my house to my car, which was parked in front of the house. I started to put my briefcase in the trunk when I heard a noise. I thought somebody was shooting off firecrackers. I realized that I was being shot, as I felt pain. I threw myself to the side of the car and played dead. After a few seconds, I got up and saw two men in a car pulling away. One man was driving, and one was in the back seat. They were both heavyset guys. I am almost sure that one of the guys was Massina. After the car pulled away, I was in shock and walked up to my front door, called out to my wife, and collapsed on my front porch.

I later learned that I had been shot nine times. When I was in the hospital, I was visited by my brother, Sonny. Sonny told me that he had a message from Carmine Rastelli. The message was that "Carmine and Eddie moved a piano and broke one of its legs, but everything is all right now." Carmine was telling me that all was forgiven, but I knew that they would try to kill me again. I told my brother to tell Carmine to go to hell. I then called my wife and told her that I had two choices: to be a dead man or to talk to the Feds. I decided to co-operate. I never took immunity for my crimes. I didn't want to hurt the Government's case. The Eastern District of New York declined to prosecute me.

Since my decision to cooperate with the Federal Government, I have spent 12 days on the witness stand in U.S. District Court, Eastern District of New York, testifying on the activities of Local 814 and the influence and control exerted in Local 814 by Bonanno LCN family boss Phillip Rastelli and other LCN members. My testimony has led to the conviction of Phillip Rastelli and 12 others who are either made members of the LCN or associates with the Mob.

When the LCN is well entrenched in Union Locals, such as 814, they control the daily activities of contract negotiations and other Union business which has a direct impact on the rank-and-file members. When the LCN gets into a Union, it is they who control the Local and not the rank and file. The rank and file lose control over all negotiations and in-house activities, such as elections and the appointing of business agents and stewards, because of the threat of violence. Consequently, the rank-and-file members do not participate in free elections, contract negotiations, and other Local activities in which they have a concern. The LCN is only interested in what they can get for themselves through their control over the business agents, shop stewards, and other Local officials. The rank and file simply does not have a voice in Union decisions that will directly affect their wages and other benefits.

The Mob obtains this control of Locals by controlling the shop stewards, business agents, and sometimes the industry connected to the Union, as in the case of 814.

In my opinion, the Federal Government's use of trusteeships to restore order to the Locals is necessary and the right approach in returning that Local to the rank and file. And I believe that if properly organized, with sufficient time and qualified people, the trusteeship approach will eventually succeed in eliminating the Mob's influence. What the trustees should do is to identify these rank-and-file people not connected to the Mob and appoint them as business agents and shop stewards. This way, the LCN will no longer exert control over elections and other important matters pertaining to the daily activities of the Locals.

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STATEMENT

OF

EDWIN H. STIER
COURT APPOINTED TRUSTEE
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
LOCAL 560

BEFORE

THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

CONCERNING

THE USE OF RICO TRUSTEESHIPS TO COMBAT
LABOR RACKETEERING

Mr. Chairman and members of the Subcommittee, I am honored to appear before you to discuss my experience as Court appointed Trustee for Teamsters Local 560.

Over a period of thirty years, Teamsters Local 560 has come to symbolize the "captive labor organization." Its history has included repeated acts of labor racketeering and its leadership has maintained its power through violence and intimidation. Successive leaders were prosecuted for extortion, bribery and exploitation of the Pension and Welfare Funds. Corrupt leaders served long prison sentences and yet control of the Union remained firmly in the hands of the Provenzano group of the Genovese crime family. During law enforcement's continuous efforts to attack the corruption within Local 560, it became increasingly apparent that the removal of individuals from leadership positions would not in itself free the Union from racketeer domination.

The audacity with which racketeers imposed their will on the Union became a national scandal. To consolidate his political power in the Union, Anthony Provenzano ordered the murder of a popular rival, Anthony Castilito, and rewarded one of the men who carried out the murder by placing him in a responsible position in the Union. The message delivered to the membership was clear. Any threat to Anthony Provenzano's control of Local 560 would be met with a violent response. On the eve of Provenzano's first extortion prosecution in the early 1960's, Walter Glockner, an outspoken opponent of Provenzano, was murdered on the street in front of his home. Although the crime remains unsolved, for over twenty years members of Local 560 have viewed the Glockner murder as a message that outspoken criticism of the Union's leadership was forbidden.

The last organized effort to unseat the Provenzano regime was defeated in 1965 after three attempts that were thwarted by violence and fraud. No opposition appeared from 1965 until 1988. Provenzano loyalists succeeded one another as members of the executive board whenever their associates were convicted of exploiting the Union. Even though incarcerated, Anthony Provenzano's salary and pension were increased. The only open comments from the membership were expressions of support. No one in the Union spoke out publicly against labor payoffs as a betrayal of the rank and file. It was common for a member who questioned Union practices to be told by his business agent, "if you want to keep your job, keep your mouth shut." A member requesting to see a copy of his own contract might be marked as a troublemaker.

Over time, members of Local 560 were conditioned to believe that they were powerless to bring about reforms in their Union. Many felt physically threatened when approaching union officials with a problem, and were kept fearful that they might be "blackballed" from the local if they became vocal in questioning the authority of the leadership.

An important mechanism used by the Provenzano group to maintain control was to deprive the membership of information necessary to hold the leadership of the Union accountable for their performance in office. Members were unaware of their most basic rights and understood very little of the inner workings of the Union and the Pension and Welfare Funds. Without such knowledge, it was impossible for a member to question decisions made by the Union's leadership even if no physical or economic threat of retaliation existed.

In 1982, after completing a series of extortion and murder prosecutions involving Local 560's leadership, the Department of Justice attempted a bold new approach to break the cycle of corruption in the Union. The Department of Justice filed a civil action under the RICO Act seeking the imposition of a trusteeship on Local 560. The matter was tried before the Honorable Harold A. Ackerman of the United States District Court for New Jersey, who issued an Opinion in 1984 that described in detail the lurid history of Local 560. Judge Ackerman concluded that a racketeering conspiracy had controlled and exploited Local 560, and had remained in power by systematically depriving the membership of their most fundamental rights of political self-expression.

He ordered the removal of the Union's executive board to be replaced by a Trustee. In substance, the objectives of the trusteeship were to remove the influence of racketeering and the atmosphere of intimidation from the Union and to restore Union democracy so that the membership could freely select its leaders. Initially Judge Ackerman contemplated that the trusteeship would remain in effect "presumptively" for eighteen months.

Judge Ackerman stayed the effective date of his Order pending appeal. The case was affirmed by the Court of Appeals for the Third Circuit in December of 1985 and in June of 1986 certiorari was denied by the United States Supreme Court. Finally, on June 23, 1986, Judge Ackerman appointed a Trustee and implemented his Order.

Nine months later, Judge Ackerman solicited my views on the effectiveness of the trusteeship and on a possible new strategy to accomplish the Court's objectives.

In essence, the problem in Local 560 originates deep within the organization from a symbiotic relationship among racketeers of the Genovese crime family, members of Local 560 and segments of the transportation industry. This follows a classic pattern in which racketeers, over long periods of time, develop relationships of mutual dependence with segments of an industry, ultimately corrupting the entire fabric of that industry so that its legitimate members cannot function in it. When this occurs, even the removal of key racketeers does not solve the problem because the problem has become institutionalized. The culture of the industry has become so dependent upon the racketeer element that corruption survives and endures even in the face of vigorous enforcement efforts. Such had been the case in Local 560.

Theoretically at least, the solution to this problem would require a process of changing the underlying values and long standing patterns of behavior of the "captive" organization that made racketeer dominance an essential part of its culture.

The effort of the Justice Department to utilize the RICO statute to reform Local 560, therefore, represented the first serious attempt to alter basic conditions that have caused an institution to accept the presence of organized crime and have promoted its regeneration whenever a particular racketeer has been removed. If this experience with Local 560 were to provide a remedy to reform the environment in which organized crime thrives, it would overcome one of the major limitations from which traditional criminal justice strategies against organized crime suffer.

After speaking with people who saw the problems of the Union from law enforcement and trade union points of view, and reviewing portions of the trial record, I proposed a strategy to Judge Ackerman comprised of three elements. First, the Trustee would have to operate the Union effectively for the benefit of the membership during the period of the trusteeship. Regardless of any other measure of success, if the membership could not count upon receiving basic services from the Union, the trusteeship would be doomed to failure. Beyond that, it would be difficult to motivate the members to change long-standing patterns of behavior if they had no faith that the government was capable of or interested in protecting their rights as Union members. This is a very critical concern for a trustee who does not have a background as a labor leader, and whose identification with law enforcement is likely to cause trade unionists to question his motives.

Second, the Trustee would have to identify and attempt to combat the problem of organized crime from within Local 560 itself. Success in this area would depend upon support from the Department of Justice and the Department of Labor to undertake investigations based upon lead information discovered during the trusteeship relating to suspicious contracts or possible misuse of the Pension and Welfare Funds. Such investigations would serve two purposes. They might eventually lead to litigation that would further weaken racketeering influences in the Union. Additionally, the membership would gain more insight into the effects of the racketeering influence on Local 560 and upon themselves as Union members.

The third element of the strategy would be an effort to "democratize" the Union. This would be achieved by creating a sense of obligation within the membership to participate actively and responsibly in the political affairs of the Union; to express their views; and to hold their leadership accountable for the manner in which they carry out the responsibilities of their offices.

On May 12, 1987, Judge Ackerman appointed me as Trustee and Frank Jackiewicz as Associate Trustee. Mr. Jackiewicz had been a Teamster for 46 years and had earned a reputation as an honest, competent labor leader during his career. At considerable personal sacrifice to his retirement plans, he agreed, for the sake of the members, to join me in administering the Union on a day-to-day basis. Without his dedicated, unselfish commitment, the membership would not have received adequate representation and the trusteeship could not have succeeded.

Significant changes had occurred at Local 560 during the prior ten months that the union had been in trusteeship. All of the business agents had been replaced; a new executive director had been appointed for the Pension and Welfare Funds; the new director had identified a number of deficiencies in the administration of the funds and efforts were under way to make improvements.

On the surface, the Union appeared to be functioning reasonably well under the trusteeship. A number of contracts had been negotiated and grievances were being handled adequately. However, there was no evidence that attitudes toward the racketeering problems in the Union were changing or that those who had been removed from power by Judge Ackerman faced any political challenge whatsoever.

Indeed Anthony Provenzano's portrait still hung on the wall and no one spoke out in criticism of him or anyone else who had held power within the Union. Clearly recognizable taboos existed. For example, names of notorious former leaders were not mentioned in open conversation. The remnants of the political organization that had opposed Anthony Provenzano in the early 1960s had been scattered and did not appear to be capable of waging a credible campaign in a democratically run election for control of the union.

Our administration of the Union began in a hostile environment. The trusteeship had no political constituency, no communications network within the Union, and no credibility with either the members or their employers. Over the months, however, the membership and their employers gradually realized that the trusteeship would be diligent in protecting the interests of Local 560's members.

The Departments of Justice and Labor immediately undertook a systematic review of the approximately 400 contracts to which the Union is a party. In addition, the Pension and Welfare funds received careful scrutiny. To date, approximately fifty investigations have been undertaken by the Department of Justice, some of which have resulted in legal action.

Perhaps most shocking was the discovery of just how little the members understood of their most basic rights and of their sense of powerlessness to bring about any political reform within the Union. As a first step to combat this, the trusteeship started a newspaper. A courageous young woman, Lisa Vives, who at the time was employed by a local newspaper and had been the president of her Union, was recruited to publish a newspaper intended to be informative and to serve as a forum for members to freely express their ideas to the diverse membership that makes up the local. At first, members showed great reluctance to submit letters for publication. Gradually, however, they began to express themselves and to discuss important issues overcoming many years of silence.

A similar problem existed at meetings. The only organized political group in the Local were the supporters of the administration that had been removed from office. They dominated all of our meetings and at first no one dared to speak out against them.

Their agenda was to confine the discussion to the legitimacy and effectiveness of the trusteeship. The misdeeds of Local 560's past leaders was a subject not to be raised. After several meetings, however, the first faint comments of dissent were publicly voiced.

Victor Reuther, the brother of renowned labor leader Walter Reuther, addressed a meeting of members who historically had been shut out politically. He gave a stirring talk about his experiences in the early days of organizing the United Auto Workers. By the end of the meeting, a shop steward who had been in the union for over thirty years stood up and expressed his frustration at having attended meetings in the past at which he neither received information of value to him, nor was given the chance to express his views. Soon afterward, others began to speak out. Members with similar concerns identified one another and began to form networks of mutual support.

By November of 1987, it became clear that no further progress was possible in stimulating political organizing in the Union without an election date as a goal toward which political groups could build their campaigns. Accordingly, Judge Ackerman agreed to set December 6, 1988 as the date on which votes would be counted and that the Trusteeship would begin immediately to develop a political process in the Union in which members would feel free to raise critical issues and to organize support.

On February 14, 1988, approximately 2,000 members attended a general membership meeting. At that meeting, the election schedule was presented and a new political group announced its presence and its intention to mount a campaign challenging the wrongdoing of the past.

The political campaign began immediately after that meeting. Literature was circulated criticizing the quality of representation the members had received in the past and describing the effects of racketeering on the Local. Rallies were held, campaign funds were collected, and networks of campaign workers were organized. Members signed and submitted letters and even poetry to the Union newspaper expressing their concerns.

The political process that took place in Local 560 was a dramatic departure from the past. The taboos that had restricted self-expression eroded and although some members remained fearful, the campaign was remarkably free from incidents.

In an effort to conform as closely as possible to the election procedures set forth in the Union's Constitution and Bylaws, the International Brotherhood of Teamsters was requested to provide certain assistance. They responded to all of our requests with complete cooperation by developing and presenting an education program to Local 560's members; reviewing our membership list to maximize the number of eligible voters and advising us on election procedures.

The nominations meeting was held on October 16, 1988. Three slates of candidates were nominated. The group called Teamsters for Liberty that had been loyal to the prior administration, nominated Daniel Sciarra for President, along with six other candidates for the remaining offices of the executive board.

Michael Sciarra, the former President of Local 560, had been their first choice, but he was barred from running in this election. This resulted from a suit brought by the Department of Justice, with my concurrence, alleging that Michael Sciarra had maintained a connection with the Genovese Family and had acted on their behalf after Judge Ackerman had issued his original opinion and, therefore, should not be permitted to run for president of the Local.

The second slate of candidates, the United Ticket, was headed by Ray Carney, who had been a candidate for office in the early 1960s, running against the Provenzano regime.

A third slate of candidates was comprised of members who had no prior political experience. Three of them had served as business agents during the trusteeship. They nominated a candidate for each office of the executive board except the office of president.

The response of the membership during the election was extraordinary for a union election. Of the approximately 7600 members eligible to vote, 62% cast their ballots. Very few allegations of election misconduct were received. All three slates of candidates visited a majority of places of employment and sent a great deal of literature to the members' homes.

When the votes were counted on December 6, the Teamsters for Liberty had won by a margin of 2 to 1. Since the election, Michael Sciarra has been returned to the Union's administration as a business agent. Although the Government opposed the Executive Board's decision to hire Sciarra before the Judge who had barred him from running for office, the Court rejected the Governments argument. The Court concluded that as long as Michael Sciarra is effectively supervised by the Executive Board and does not become a de facto member of the Board, the Court will not intervene.

Now that supporters of Michael Sciarra have been returned to power, the question is what has been accomplished by this lengthy and difficult process? At this point, nothing is certain beyond the very important fact that for the first time since 1965 the membership engaged in a political campaign that a majority of them had never experienced before. They raised issues that most members were afraid to raise in the past. They learned a great deal about the operation of their union and its pension and welfare funds, and about their rights as union members. Only time will tell whether this democratic process has taken root and whether the patterns of behavior that were so deeply ingrained in the union have been altered.

The role of the trustee has now changed significantly. The newly elected executive board has assumed the responsibility to run the affairs of the union. It has expressed a commitment to continue informing the members and to encourage self-expression. They are required to regularly submit copies of certain critical reports for purposes of monitoring their performance in office and I have been given a broad range of investigative powers.

Control over the appointment of Union trustees to the Pension and Welfare Funds remains with the Court's Trustee pending a reorganization of the funds, including the replacement of all of the third party service providers.

Judge Ackerman shortly will begin to assess the progress that has been made and determine the length of time that Local 560 will remain under court control as well as the form that supervision will take.

Finally, but perhaps most importantly in the overall scheme of things, a study of the trusteeship has been undertaken to assess the efficacy of this entire effort. The National Institute of Justice has provided funding to the John F. Kennedy School at Harvard University to support this effort. Linda Kaboolian, a member of the faculty, has been working from the outset of my tenure to gather the data necessary for an objective analysis of this RICO trusteeship.

Although a final assessment of the effectiveness of this trusteeship is not possible at this point, I would like to leave you with some additional thoughts. A trusteeship of this kind is aimed at basic cultural change. Anything more superficial is not going to have lasting results. At the same time, the essential character of the union as the bargaining agent for its members must be maintained during the period of court control. The trusteeship must, therefore, strike a difficult balance between altering and preserving the Union that changes only those aspects of the Union's culture that have contributed to perpetuating the racketeering problem.

Maintenance of essential services within the Union and preservation of the Union's bargaining position with employers requires acceptance by the members of a legitimate leadership role for the Trustee. Similarly behavioral change within the Union can only occur in an atmosphere of effective communication between the Trustee and the membership.

Financing the enormous effort needed to alter the Union's culture from the Union's treasury can become self defeating. The political forces within the Union that resist change will seize upon the cost of the Trusteeship to the Union as an argument against its legitimacy and will cloud the issues that brought about the trusteeship with rhetoric about government "Union busting." As long as we continue to fund Trusteeships from Union treasuries, the more aggressively we attempt to bring about change in the Union's culture, the stronger we will make the opponents of that change and the more confused we will make the membership.

Resolving the dilemma will require a deeper understanding of the internal dynamics of Unions and a commitment by the Government to provide the support for such an extraordinary effort. Such support is vastly different from the support required even for the most complex criminal investigation. Unless we are prepared to provide those resources, and to develop the strategies necessary to bring about fundamental change, we should not assume the serious risks inherent in imposing such trusteeships.

ADDITIONAL QUESTIONS
FOR THE
HEARING RECORD

Edwin Stier
Trustee, Teamsters Local 560
Union City, New Jersey

* * * *

1. Q. On April 4, 1989, the General President and the General Counsel of the International Brotherhood of Teamsters testified here, vigorously opposing the imposition of any RICO trusteeship on a labor union. They argued that RICO trusteeships "contravene established doctrines of Federal labor law and union democracy." Do you agree?

A. I do not agree. In the case of Local 560, the issue of whether the trusteeship was properly imposed under Federal labor law was resolved in the United States Courts. Judicial intervention under the RICO statute is intended to protect the membership of the Union and the public from racketeer exploitation of the Union.

It strikes me as absurd for the General President of the IBT to argue that a Court imposed trusteeship in Local 560 contravenes union democracy when the very basis for the trusteeship was the total absence of union democracy in Local 560 for almost 30 years. Despite the murder of a political rival by the former president of Local 560 and the murder of a dissident, as well as a long, documented series of acts of political intimidation, the IBT did nothing to protect the democratic rights of the membership. Therefore, criticism of the Court's action by the IBT has a hollow ring.

2. Q. The General President and General Counsel of the Teamsters also stated that:

> A Trustee, whose role is that of a 'cop,' cannot obtain the loyalty and support of the rank-and-file membership. Indeed, as the experience with Local 560 makes clear, a RICO Trustee is likely to become a symbol of

> oppression and the rallying point for a counter force.

Do you agree?

A. I do not agree. It is unclear what the General President means when he refers to the Trustee as "a cop." If he means that the Trustee had the role of protecting the membership from criminal exploitation of the Union and theft of its assets, I don't see a basis for his criticism.

It was not the objective of the trusteeship during my tenure to inspire the loyalty and support of the membership in a political sense. A trusteeship is not the best way to run a union and the membership should not become satisfied with that form of union administration. However, as the record of the Local 560 trusteeship demonstrates, as long as the Trustee is perceived as genuinely interested in protecting the rights of the members, they will remain cooperative. For example, during my tenure, there were approximately six strikes, all of which were successfully resolved. In addition, we were able to conclude several wildcat strikes without sanctions being imposed by employers. Almost 200 contracts were negotiated during my tenure, all of which resulted in improvement in wages, benefits and working conditions for the bargaining units.

In all cases, our ability to achieve these results was enhanced by the active support of the membership. I am sure that they did not do this for the sake of the trusteeship, but instead they responded because the membership recognized that the trusteeship was attempting to help them.

To some extent those who wish to return to the pre-trusteeship status quo are able to use the presence of a Trustee as a "rallying point." This is unavoidable. However, this does not mean that the effort to restore democracy to the Union under a trusteeship is futile. In Local 560, an election was held that was truly competitive for the first time in almost 30 years. Active campaigning took place for many months. We don't know precisely the extent to which the presence of the Trustee affected the outcome of the election. However, it is obvious from the history of Local 560 that a democratic election would not have taken place absent the trusteeship.

3. Q. What has been the single biggest problem or frustration you have experienced in your role as Trustee, administrator, or chief liaison officer?

A. The two most serious problems I encountered were a lack of resources for organizing and educating Union members and the limited investigative support provided to me by the federal government. The first problem stems from the need to finance the trusteeship based solely upon the union treasury. This meant that staff was unavailable to work within the Union to stimulate active participation by the membership in the Union's political affairs.

We were able to reach many people through the Union newspaper and the educational programs we ran. However, much more active effort is needed to work directly with a broad cross-section of the membership in order to overcome the sense of powerlessness from which they suffer. This requires a sophisticated staff in addition to the business agents and organizers that normally are employed by the Union.

Investigative support is essential for the success of the trusteeship. However, it cannot be the traditional reactive form of investigation. There must be a sufficient commitment of manpower for an immediate response to investigative leads that are related to the objectives of the trusteeship. In addition, an intelligence base should be created for the trusteeship to support tactical decision-making.

4. Q. You were appointed by a Count as a result of a civil RICO suit brought by the government. Do you believe that you have been successful in achieving the goals of the government suit? For example, on a scale of 1 to 10, how effective do you think your trusteeship has been in eliminating corruption and organized crime influence?

A. The long-term impact of the trusteeship at this point cannot be measured. An election has taken place and the new Executive Board appears to be concerned about protecting its political support within the Union. In that sense, a political process that should continue for the indefinite future has been established in the Union. In the short-term, membership has been exposed to a political campaign that many have never experienced before. Almost 200 contracts were negotiated during the trusteeship with reasonable success. During the trusteeship, the Union functioned in many ways like a typical Teamster local. Finally, the administration of the Pension and Welfare Funds has been totally reorganized and is more effectively insulated from exploitation than ever before. In the short-term, therefore, I would rate the success of the trusteeship at least an 8.

5. Q. Were you given sufficient power and authority to reach that goal? If not, what was lacking?

A. I cannot think of any additional power or authority that would have made this trusteeship more successful.

6. Q. Of all the authority given to you by the Court, what power was the most important to you, as a practical matter?

A. The most important authority of the Trustee of Local 560 was operating the Union on a day-to-day basis. I don't think it would have been possible to reach the membership to any significant degree unless the Trustee could relate to the members on a very personal level. Discussing contract demands, negotiating contracts, participating in ratification meetings, processing grievances, responding to problems with the pension and welfare funds and working with the membership on a day-to-day basis had a greater impact than any other activity of the Trustee in encouraging members to assume the responsibility for governing themselves.

7. Q. Have you seen any evidence of continued corruption or organized crime influence after your appointment by the Court?

A. Although I have sent some lead information to the Department of Justice for investigation, as a general matter since the trusteeship there has been very little evidence of organized crime activity within Local 560.

8. Q. Have the rank-and-file Union members received any benefits, either tangible or intangible, as a result of your trusteeship? If so, explain.

A. The rank-and-file, of course, received the benefit of being freed from the dictatorial rule of racketeers for almost 30 years. They have been permitted to participate in a free, democratic election and to begin to learn how their Union and its pension and welfare funds should function. Many members for the first time received copies of contracts under which they worked.

In addition, during the trusteeship, during contract negotiations and grievance handling, the members received representation that effectively protected their interests.

9. Q. Did your presence have any detrimental effect on the Union's ability to negotiate contracts? Did anv of these contracts result in a diminution in benefits to the rank-and-file members? If so, what was the reason for this loss in benefits and/or wages?

A. We have performed an analysis of most of the contracts that were negotiated during the time that I was Trustee. The monetary benefits derived from those negotiations showed a consistent increase. In addition, a number of contracts were improved to eliminate two-tier wage scales and other unfair provisions. I have attached a copy of our analysis as Exhibit A.

10. Q. To what extent have you been able to carry out investigations of alleged improprieties? Have you been satisfied with the results of those investigations? Would they have benefitted by increased support from the FBI and other law enforcement agencies?

A. During the trusteeship, I worked closely with federal law enforcement agencies in the District of New Jersey to conduct investigations of leads that I generated. Although on a local level, the Department of Justice and the Department of Labor were supportive, inadequate resources were available to conduct investigations in as thorough and timely manner as necessary to support the trusteeship. In my judgment, support from the FBI, SEC and other agencies would have enhanced the effectiveness of this trusteeship.

11. Q. Since your appointment, have you or your staff been threatened or intimidated in any way regarding your responsibilities in this position?

A. There have been a number of threats and other acts of intimidation directed against the staff of the trusteeship, all of which have been forwarded to the Department of Justice for investigation.

12. Q. Could your trusteeship have used assistance from the federal government's regulatory branch? If so, explain.

A. The only regulatory agency that I can think of that would have been important to the trusteeship is the SEC. A number of leads generated during the trusteeship related to investments of the Union's pension funds. Because of a lack of support from the SEC, those investigations have not been thoroughly pursued.

13. Q. To what extent do you interact with the Department of Labor? Have you been satisfied with their cooperation?

A. I have had a great deal of interaction with the Department of Labor. The agents located in New Jersey provided good support for the trusteeship. However, they could offer only resources available.

14. Q. In the case of a labor union, can a Trustee balance the dual role of investigator and union official, without adversely affecting the rank-and-file members?

A. It is difficult, but quite possible to balance the interests of investigator and union official in administering the affairs of the Union if the primary objective of the investigations is to advance and protect the interests of the membership. This is, of course, compatible with the Trustee's duties as the collective bargaining agent for the membership.

15. Q. Currently, most RICO trusteeships are funded by the entity that is placed in trusteeship. Some trusteeships could not be adequately supported by the affected entity, due to a lack of financial resources. If the government provided an alternative form of funding for trusteeships, would that in itself remedy many of the problems now being experienced by your trusteeship?

A. As noted above, government funding would be of great assistance in expanding the resources of the trusteeship beyond the limits of the Union treasury. This would include hiring experts and organizing and educating the membership, an effort needed to motivate members to actively challenge an entrenched leadership.

16. Q. What methods or programs have you used to educate the rank-and-file as to the trusteeship, their rights, their

pensions, regulations, etc.? Were these programs effective?

A. The most important method of educating the membership was to establish and operate a Union newspaper that was truly informative and provided a forum for members to express themselves. In addition, the IBT provided several educational programs. We held meetings with the various segments of the Union, as well as the membership as a whole. At such meetings a great deal of information about the Union and the pension and welfare funds was conveyed.

These programs had limited effectiveness. A much more aggressive program is needed to contact members and organize them at the shop level to stimulate their interest and involvement in Union activities.

17. Q. How has your trusteeship been received by the International Union or industry? Have you received adequate assistance from them?

A. The IBT treated Local 560, during the time that I was the Trustee, like any other Teamster local union. We participated in regional and national contract negotiations, educational programs and received full support and cooperation whenever we requested it. Specifically, the International provided assistance in automating the Local's bookkeeping system and updating the membership roles. In addition, at our request, education programs were run by top level staff personnel from the International. The General President provided a letter to each member urging participation in the educational programs.

Generally, our dealings with industry (Local 560 has approximately 400 bargaining units) has been no different than the typical Teamster local in our area. We have had many instances in which industry representatives cooperated with the trusteeship to resolve serious labor/management problems.

18. Q. How have you been received by the rank-and-file members of the local Union?

A. The membership has not actively supported the trusteeship in an overt way. However, there are strong indications that the membership trusted the integrity of the trusteeship and was willing to cooperate with it. Although there were periodic demonstrations of opposition to the trusteeship, there was little active interference with the day-to-day administration of the Union.

19. Q. Do you believe that the government, when it is considering filing a civil RICO suit against an entity, adequately researches the type of relief necessary to rehabilitate that entity? If not, do you have any suggestions as to what preparatory steps or process the government should consider when crafting the requested relief to the Court?

A. I am not familiar with the specific steps followed by the government in preparation for RICO trusteeship litigation. However, I have the impression that emphasis is placed primarily on research and strategy development necessary to win the case. Much less effort is devoted to developing a strategy for accomplishing the objectives of the trusteeship. The Trustee, therefore, is left to his own devices.

A serious effort should be made by the government to learn much more about the operation of a labor union, its political structure and to define specifically the goals of a trusteeship within that framework. Expert support should be obtained outside the Department of Justice from those who have had first-hand experience in the labor movement. All of this should take place before the government seeks a specific form of relief from the Court or enters into settlement negotiations.

20. Q. In your opinion, are the courts being consistent in the way they grant relief in civil RICO cases? It is my understanding that in the Local 560 case, a federal judge at one point barred Michael Sciarra and Joseph Sheridan from running for Union office, but later allowed them to be appointed as business agents after viewing the same evidence which had justified barring them from running in the Local 560 election. Mr. Stier, do you agree with the rationale in that decision? What effect did that opinion have on the morale of the rank-an-file members?

A. I would prefer not to comment upon a decision of the Court because this litigation is still pending and it is possible that we could seek further relief.

21. Q. Has your trusteeship had any effect on the way the affected industry conducts its business? Or is the trusteeship unable to exert an effect on the industry as a whole?

A. During the trusteeship, we experienced some instances where employers told us that they were now negotiating in a more business-like way with the Union than previously. However, it is difficult to tell whether the manner in which employers were dealt with during the trusteeship will have any lasting effect.

22. Q. What specific recommendations do you have as to the use of the civil provisions of RICO, the creation of trusteeships, and the relationship between a trusteeship and the government?

A. I strongly urge that RICO trusteeships continue to be considered a viable approach to attacking labor racketeering. However, they should be used sparingly and only when no less intrusive relief would be likely to correct a problem of systemic corruption. The Courts should have available the full range of options including total control of the day-to-day affairs of the Union.

The government should not only make an effort to win the relief it is seeking, but should devise a strategic plan that defines goals and outlines a realistic approach to achieving them. This plan should be reviewed for its practical value by knowledgeable consultants.

Resources beyond the limits of the Union treasury should be provided for the trusteeship. In addition, a team of investigators, attorneys and intelligence analysts should be assembled to support the trusteeship on a full-time basis.

Finally every effort should be made to involve organized labor in the solution to problems of corruption in the trade union movement. Ultimately, they are the most potent weapon against labor racketeering.

23. Q. Do you believe that a "decreeship" as used in Local 30/30B would have been more or less effective if used in your own case?

A. As I understand the decreeship in Local 30/30B, I do not believe it would have been effective if applied to Local 560. The group that held power in Local 560 was extremely sophisticated and had been subjected to intense investigation for many years. The kind of external oversight that the decreeship provides could not have brought about the cultural changes required to create a political process in Local 560.

TEAMSTERS LOCAL 560
CONTRACTS NEGOTIATED DURING TENURE OF EDWIN H. STIER AS TRUSTEE

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
A. Ambrosio Jr. Trucking (8/03/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
A. J. Celiano, Inc. (JS) (7/26/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
A. P. Green Refractories Co. (4/01/88)	4/01/90	2.075	2.48	12.99	17.54
	4/01/89	1.875	2.48	12.59	16.94
	4/01/88	1.675	2.48	12.24	16.39
	4/01/87	1.425	2.38	12.24	16.04
	4/01/86	1.375	2.33	11.84	15.54
	4/01/85	1.375	2.23	11.44	15.04
	4/01/84	1.325	2.18	11.04	14.54
Adams & Gray, Inc. (JS) (6/20/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Affiliated Metals, Inc. (JS) (6/11/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.34	16.15	20.19
Agfa-Gevaert, Inc. (7/15/86)	7/15/88	1.660	1.01	13.70	16.37
	7/15/87	1.560	1.01	13.30	15.87
	7/15/86	1.460	1.01	12.90	15.37
Airco Welding (4/01/88)	4/01/88	1.675	2.48	14.48	18.635
	4/01/87	1.425	2.38	13.23	18.035
	4/01/86	1.375	2.33	13.73	17.435
	4/01/85	1.375	2.23	13.73	17.335
	4/01/84	1.325	2.18	13.73	17.235
Arrow Typographical, Inc. (8/23/88)	8/23/90	1.00	0.50	10.28	11.78
	8/23/89	0.95	0.50	9.83	11.25
	8/23/88	0.80	0.50	9.38	10.68
	8/23/87	0.85	0.45	8.87	10.19
	8/23/86	0.80	0.40	8.42	9.62
	8/23/85	0.75	0.35	7.97	9.09

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Arvin Aftermaket Prod. Div. (9/26/86)	10/03/88	0.80	0.30	9.82	10.92
	10/05/87	0.78	0.29	9.62	10.69
	9/29/86	0.75	0.27	9.42	10.44
	9/30/85	0.70	0.25	9.22	10.17
	10/01/84	0.67	0.25	8.80	9.72
Arzee Supply Corp. (1/01/88)	12/31/90	0.10		11.80	11.90
	1/01/89	0.10		11.30	11.40
	1/01/88	0.10		10.80	10.90
	6/01/87	0.10		9.80	9.90
	/86	0.10		9.30	9.40
	/85	0.10		8.80	8.90
Atlas Associates Inc. (2/01/87)	2/01/89	0.95	0.85	12.68	14.48
	2/01/88	0.90	0.80	12.13	13.83
	2/01/87	0.85	0.75	11.78	13.38
	2/01/86	0.80	0.70	11.78	13.28
	2/01/85	0.80	0.70	11.78	13.28
	2/01/84	0.75	0.65	11.08	12.48

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Bruce Equipment Co. (6/01/88)	6/01/90	2.075	2.48	13.10	17.65
	6/01/89	1.875	2.40	12.50	16.77
	6/01/88	1.675	2.40	12.00	16.07
	6/01/87	1.425	2.38	11.00	14.80
	6/01/86	1.375	2.33	10.50	14.20
	6/01/85	1.375	2.23	10.00	13.60
Bruno & D'Elia Inc. (9/01/88)	9/01/90	2.075	2.43	11.27	15.77
	9/01/89	1.875	2.43	10.92	15.22
	9/01/88	1.675	2.43	10.57	14.67
	9/01/87	1.425	2.33	10.17	13.92
	9/01/86	1.375	2.33	10.17	13.87
	9/01/85	1.375	2.23	9.77	13.77
C & F Concrete Construction (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
C & L Warehouse* (4/17/88)	4/16/90	0.120		11.35	11.47
	4/16/89	0.110		10.75	10.86
	4/01/88	0.100		10.15	10.25

*Company Pension & Welfare

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
C & S Fence (JS) (9/23/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
C M & Sons Trucking (JS) (4/12/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
C M Trucking (JS) (10/06/88)	5/01/88	1.925	2.620	17.30	21.895
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.75	10.195
C. P. Transport (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735
Carolina Freight (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.330	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Cathedral Marble (JS) (3/02/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Columbia Woodworking Co. (JS) (8/30/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.57	20.96
	5/01/86	1.675	2.37	16.15	20.19
Concrete Trucking Service (JS) (12/10/87)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Concrete Trucking (JS) (5/20/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Consolidated Freightways Inc. (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Conti Construction (JS) (9/23/88)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Conti Construction Company (5/01/86)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Crown Plastering (JS) (6/14/87)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Cruz Contracting (JS) (10/04/84)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.945
	5/01/86	1.675	2.370	16.15	20.195
Custodis-Cottrell, Inc. (5/01/88)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Daniel Products Corp.					
(7/01/88)	7/01/90	1.310	0.60	17.74	19.65
	7/01/89	1.190	0.55	17.34	19.08
	7/01/88	1.040	0.55	16.89	18.48
	7/01/87	0.880	0.55	16.44	17.87
	7/01/86	0.830	0.50	16.19	17.52
	7/01/85	0.780	0.45	15.94	17.17
D. C. Dowcon, Inc. (JS)					
(5/01/88)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Denville Line Painting, Inc.					
(5/01/87)	5/01/88	1.925	2.62	17.30	21.34
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	**Effective Date**	Rx **Plan**	H&W Hourly **Rate**	Pension Hourly **Rate**	Wages Hourly **Rate**	**TOTAL**
Electrified Appliances Co., Inc. (4/01/87)	4/01/89	0.12	0.950	0.55	7.51	9.13
	4/01/88	0.11	0.900	0.50	7.21	8.72
	4/01/87	0.10	0.850	0.45	6.91	8.31
	4/01/86		0.770	0.40	6.61	7.71
	4/01/85		0.770	0.35	6.36	7.41
	4/01/84		0.740	0.30	6.11	7.15

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Enterprise Corrugated (4/01/88)	4/01/90	2.075	2.48	14.43	18.98
	4/01/89	1.875	2.48	14.03	18.38
	4/01/88	1.675	2.48	13.63	17.78
	4/01/87	1.425	2.38	10.10	13.90
	4/01/86	1.375	2.33	8.60	12.20
	4/01/85	1.375	2.23	8.10	11.70

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Environmental Services (JS) (5/01/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
F. G. Trucking (JS) (5/01/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
F. Gaccione, Inc. (5/01/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.13	20.19
Fairmount Elec. (JS) (5/03/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	15.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	Rx Plan	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Fairview Cemetery (6/01/88)	6/01/90		1.200	0.97	10.41	12.58
	6/01/89		1.650	0.87	9.91	11.83
	6/01/88		0.950	0.77	9.41	11.13
	6/01/87		0.900	0.67	8.91	10.48
	6/01/86		0.820	0.62	8.41	9.85
	6/01/85		0.740	0.57	7.96	9.27
Fenestra Erectors (JS) (5/01/88)	5/01/88		1.925	2.62	17.30	21.84
	5/01/87		1.675	2.62	16.75	21.04
	5/01/86		1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Ferreira Trucking (4/01/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Fisher Bros. Steel Corp. (9/09/88)	9/09/90	2.070	1.88	14.09	18.04
	9/09/89	1.870	1.88	13.59	17.34
	9/15/88	1.675	1.88	13.09	16.64
	9/09/87	1.425	1.78	12.59	15.79
	9/09/86	1.375	1.73	12.09	15.09
	9/09/85	1.375	1.57	11.59	14.53
Frank W. Hake Inc. (11/16/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Frank W. Hake Inc. (JS) (5/01/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Frank W. Hake (JS) (5/01/87)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Fresh Start Millwriting (JS) (10/17/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
General Roofing (JS) (6/14/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.765	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Gilbert-Robinson, Inc. (JS) (10/10/88)	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19
Grand Union (4/01/88)	4/01/90	2.170	2.48	16.28	20.93
	4/01/89	1.920	2.48	15.93	20.33
	4/01/88	1.675	2.48	15.58	19.73
	4/01/87	1.425	2.38	15.23	19.03
	4/01/86	1.375	2.33	14.73	18.43
	4/01/85	1.375	2.23	14.23	17.83
Grief Bros. Corp. (4/01/88)	4/01/90	2.170	2.48	14.50	19.15
	4/01/89	1.920	2.48	14.25	18.65
	4/01/88	1.675	2.48	14.00	18.15
	4/01/87	1.425	2.38	14.00	17.80
	4/01/86	1.375	2.33	13.60	17.30
	4/01/85	1.375	2.23	13.20	16.80

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Guardian Fence Co. (JS) (9/15/88)					
	5/01/88	1.925	2.62	17.30	21.84
	5/01/87	1.675	2.62	16.75	21.04
	5/01/86	1.675	2.37	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	Rx Plan	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
H & H Purveyors, Inc. (8/01/87)	8/01/88		1.000	0.60	11.10	12.70
	8/01/87		0.900	0.50	10.60	12.00
	8/01/86		0.800	0.40	10.10	11.30
	8/01/85		0.750	0.35	9.85	10.95
	8/01/84		0.650	0.30	9.60	10.55
Halper Bros. Inc.* (12/10/86)	12/10/88	0.11			7.63	8.44
	12/10/87	0.10			7.88	8.97
	12/10/86	0.08	0.800		6.83	7.91
	12/10/85		0.750		6.63	7.31
	12/10/84		0.700		6.43	7.13

*Eliminated 2-Tier System

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Hammond Contract (JS) (6/1/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Hastings Pavers (JS) (5/1/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Hempel Coatings (USA), Inc. (3/01/88)	3/01/89	0.950	0.150	9.96	11.06
	3/01/88	0.900	0.100	9.58	10.50
	3/01/87		0.850	9.35	10.20
	3/01/86		0.800	8.85	9.65
	3/01/85		0.750	8.15	8.90
Hinchman & Sons (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Hi-Way Concrete Products (1/01/86)	1/01/88		0.150	11.65	11.80
	1/01/87		0.100	11.00	11.10
	1/01/86		0.050	10.35	10.85

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Hudson Tank Terminals Corp. (10/01/87)	10/01/89	1.100	1.650	17.18	19.93
	10/01/88	1.000	1.400	16.54	18.94
	10/01/87	0.900	1.150	15.90	17.95
	10/01/86	0.800	0.900	15.25	16.95
	10/01/85	0.750	0.750	14.50	16.00
	10/01/84	0.700	0.650	13.75	15.10
Ideal Supply Co. (4/01/87)	6/01/89	1.530	0.62	10.43	12.58
	6/01/88	1.470	0.57	9.93	11.97
	6/01/87	1.430	0.52	9.46	11.41
	6/01/86	1.375	0.575	9.01	10.95
	6/01/85	1.375	0.475	8.61	10.45
Industrial Sprinkler (JS) (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Int'l. Dismantling Co. (JS) (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Italia Contracting (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195
J & J Landscaping (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195
J. B. Eurell Company (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
J. Liberman & Co. Inc. (7/06/87)	7/06/89	1.05	0.650	9.30	11.00
	7/06/88	0.98	0.600	8.80	10.38
	7/06/87	0.91	0.550	8.30	9.76
	7/06/86	0.84	0.500	7.80	9.14
	7/06/85	0.77	0.450	7.35	8.57
	7/06/84	0.70	0.400	6.90	8.00
J. D'Annunzio & Sons (JS) (6/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195
J. E. Brenneman (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195
J. R. Hess Inc. (JS) (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.620	16.15	20.195
Jacor Home Repairs (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.84
	5/01/87	1.675	2.620	16.75	21.04
	5/01/86	1.675	2.620	16.15	20.19

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
James-Michael Fay Corporation (5/01/87)	5/01/88	1.925	2.620	17.30	21.84
	5/01/87	1.675	2.620	16.75	21.04
	5/01/86	1.675	2.620	16.15	20.19
Jamesway Corp. (Hardware) (3/01/88)	3/01/90	1.19	0.450	10.65	12.29
	3/01/89	1.09	0.450	10.15	11.69
	3/01/88	0.95	0.450	9.65	11.05
	3/01/87	0.84	0.500	8.95	10.29
	3/01/86	0.77	0.450	8.40	9.62
	3/01/85	0.70	0.450	7.85	9.00
	3/01/84	0.66	0.450	7.25	8.36
Jansons Associated, Inc. (4/01/87)	4/01/88	1.675	2.480	15.08	19.23
	4/01/87	1.425	2.380	14.73	18.53
	4/01/86	1.375	2.330	14.23	17.93
	4/01/85	1.375	2.230	13.73	17.33
Jobin Water Proofing (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Kadco, Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Keebler Company (10/12/88)	10/12/90	2.075	2.48	15.37	19.925
	10/12/89	1.875	2.48	15.02	19.375
	10/12/88	1.675	2.48	14.67	18.825
	10/12/87	1.425	2.38	14.32	18.12
	10/12/86	1.375	2.330	13.82	17.52
	10/12/85	1.375	2.230	13.42	17.02
Kero Leasing (4/01/88)	4/01/88	1.675	2.480	14.76	18.91
	4/01/87	1.425	2.380	14.23	18.03
	4/01/86	1.375	2.330	13.73	17.43
	4/01/85	1.375	2.230	13.23	16.83
Kingsway Store Fix. (JS) (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Kingsway Transport (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Kobi Enterprises (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Kotchey Sheet Metal (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Krista-Lee Construction (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
L. D. F. Inc. (5/01/88)	5/01/88	1.675	2.480	14.20	18.35
	4/01/87	1.425	2.380	13.98	17.78
	4/01/86	1.375	2.330	13.73	17.43
	4/01/85	1.375	2.230	13.48	17.08
L. J. & M. LaPlace (8/09/87)	4/01/89	1.975	1.795	13.40	17.16
	4/01/88	1.775	1.345	13.00	16.11
	8/09/87	1.425	1.145	12.60	15.16
	8/09/86	1.620	0.700	12.00	14.32

NAME (Contract Eff. Date)	**Effective Date**	H&W Hourly **Rate**	Pension Hourly **Rate**	Wages Hourly **Rate**	**TOTAL**
L. Corio Demolition & Excavat. (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
L. V. Trucking (10/4/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Leaseway Deliveries, Inc. (4/01/87)	4/01/88	1.675	2.480	15.63	19.78
	4/01/87	1.425	2.380	14.83	18.63
	4/01/86	1.375	2.330	13.83	17.53
Maddox Trucking Inc. (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Maen Associates (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Malbros Construction Corp. (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Marbell, Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Marcal Paper Mills, Inc. (9/16/88)	9/16/90	2.075	2.315	12.76	17.15
	9/16/89	1.875	2.213	12.41	16.50
	9/16/88	1.675	2.213	12.01	15.90
	9/16/87	1.425	1.765	11.96	15.15
	9/16/86	1.375	1.515	11.61	14.50
	9/16/85	1.375	1.215	11.26	13.85
Matx, Inc. (5/01/86)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Metropolitan Disposal SVCS (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Metropolitan Distribution (9/01/87)	9/01/89	1.520	0.775	10.48	12.775
	9/01/88	1.470	0.775	9.93	12.175
	9/01/87	1.420	0.850	9.33	11.60
	9/01/86	1.375	0.960	8.73	11.065
	9/01/85	1.375	0.720	8.43	10.525
	9/01/84	1.330	0.615	8.13	10.075
Midsouth Glass Co., Inc (JS) (9/08/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
New Jersey Express Corp. (2/01/87)	2/01/89	0.110		11.35	11.45
	2/01/88	0.100		11.00	11.10
	2/01/87	0.085		10.75	10.93
	/86			10.50	
	/85			10.00	
	/84			9.50	

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Northeast Concrete (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Novinger's Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
P J S Contractors, Inc. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
P. J. Flynn, Inc. (4/01/88)	4/01/88	1.775	2.380	14.36	18.515
	4/01/87	1.425	2.380	14.01	17.815
	4/01/86	1.375	2.330	13.71	17.415
	4/01/85	1.375	2.230	13.41	17.015
Pen Leasing, Inc. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	Rx Plan	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Pilot Freight Carriers (4/01/85)	4/01/88		1.675	2.480	15.08	19.235
	4/01/87		1.425	2.380	14.73	18.535
	4/01/86		1.375	2.330	14.23	17.935
	4/01/85		1.375	2.230	13.73	17.335
	4/01/84		1.325	2.180	13.23	16.735
Port Motor Lines (Drivers) (4/01/87)	4/01/89	0.12	2.180	2.48	9.25	14.03
	4/01/88	0.11	1.675	2.48	8.75	13.05
	4/01/87	0.10	1.425	2.33	8.50	12.15
	4/01/86		1.375	2.23	8.00	11.60
	4/01/85		1.375	2.23	7.50	11.10
	4/01/84		1.325	2.18	7.50	11.00
Port Motor Lines (Warehouse) (8/01/87)	8/01/89		0.95	0.450	10.25	11.65
	8/01/88		0.90	0.400	9.75	11.05
	8/01/87		0.85	0.350	9.50	10.70
	8/01/86		0.80	0.290	9.05	10.14
	8/01/85		0.75	0.290	8.55	9.59
	8/01/84		0.65	0.290	8.05	8.99

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Pressure Concrete & Grouting (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Progressive Brick Co., Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Propane Power Corp. (9/01/86)	3/15/87	0.90	0.24	10.30	11.44
	3/01/87	0.90	0.20	9.80	10.90
	9/01/86	0.80	0.20	9.30	10.30
	3/01/85	0.60	0.20	8.70	9.50
	3/01/84	0.60	0.20	8.20	9.00
R. J. B. Contracting, Inc. (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
R. R. Z. Trucking (7/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
R. Smith Trucking (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Ram Const & Material Corp. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Red Star Express (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735
Reliable Van & Storage (11/01/86)	3/01/88	0.90	0.10	9.65	10.65
	3/01/87	0.85	0.10	9.45	10.40
	3/01/86	0.80	0.10	8.95	9.85
	3/01/85	0.70	0.10	8.45	9.25
	3/01/84	0.65	0.10	8.05	8.80

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Rinstar (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Riverdale Chemical Corp. (4/01/88)	4/01/90	2.075	2.480	12.85	17.405
	4/01/89	1.875	2.480	12.35	16.705
	4/01/88	1.675	2.480	11.85	16.005
	4/01/87	1.425	2.380	11.35	15.155
	4/01/86	1.375	2.330	10.95	14.655
	4/01/85	1.375	2.230	10.50	14.105
	4/01/84	1.325	2.180	9.90	13.405
Roadside Safety Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Roadway Express (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Rolls Royce Motor Cars, Inc. (3/11/88)	3/11/89	1.05	0.75	14.32	16.12
	3/11/88	0.95	0.70	13.71	15.36
	3/11/87	0.85	0.65	13.06	14.56
	3/11/86	0.80	0.60	12.44	13.84
Roman Asphalt (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Roofing Sales Co., Inc. (4/01/88)	4/01/90	1.795	1.145	12.10	15.04
	4/01/89	1.675	1.145	11.50	14.32
	4/01/88	1.555	1.145	10.40	13.60
	4/01/87	1.425	1.145	10.30	12.87
	4/01/86	1.325	1.145	9.70	12.17
	10/01/84	1.225	1.145	9.20	11.57
Royal Prudential Ind., Alex's. (5/01/88)	5/01/89	1.11		7.02	8.12
	5/01/88	0.97		6.62	7.59
	5/01/87	0.75		6.22	6.77
	5/01/86	0.72		5.82	6.54
	5/01/85	0.68		5.42	6.11
	5/01/84	0.49		4.97	5.36

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
S & S Roofing, Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Salson Trucking (4/01/88)	4/01/90	1.260	1.110	11.50	13.87
	4/01/89	1.100	0.760	10.75	12.61
	12/01/88	0.970	0.490	10.00	11.46
	4/01/87	0.850	0.310	9.25	10.41
Sandy-Hill Fuel & Supply Co. (8/01/87)	8/01/89	0.97	0.60	11.70	13.27
	8/01/88	0.92	0.55	11.05	12.52
	8/01/87	0.87	0.50	10.55	11.92
	8/01/86	0.80	0.45	10.15	11.40
	8/01/85	0.75	0.40	9.65	10.80
	8/01/84	0.65	0.35	9.05	10.05
Schiavone Construction Co. (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Seaboard Industries (9/01/87)	9/01/89	2.020	0.350	11.70	14.07
	9/01/88	1.820	0.350	11.00	13.17
	9/01/87	1.620	0.350	10.30	12.27
	9/01/86	1.620	0.150	9.35	11.12
	9/01/85	1.470	0.100	8.75	10.32
	9/01/84	1.330	0.050	8.15	9.53
Siegel Tire & Battery Corp. (8/01/88)	8/01/89	1.19		9.95	11.14
	8/01/88	0.95		9.60	10.55
	8/01/87	0.91		9.25	10.16
	10/01/86	0.85		8.90	9.75
	8/01/86	0.85		8.60	9.45
	10/01/85	0.83		8.25	9.08
Simco (10/05/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Simpson & Brown, Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
St. Johnsbury (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735
State Construction (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Steel Brite Polish Corp. (5/09/85)	5/09/87	0.75	0.40	7.69	8.84
	5/09/86	0.70	0.35	7.39	8.44
	5/09/85	0.65	0.30	7.09	8.04
	5/09/84	0.61	0.30	6.64	7.55
Sylvan Pools Inc. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Tectowe Construction Co. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Tetley Inc. (6/27/87)	7/01/88	1.695	1.415	12.575	15.685
	7/01/87	1.595	1.415	12.315	15.235
	7/01/86	1.595	1.315	12.055	14.965
	7/01/85	1.455	1.215	11.455	14.115
	7/01/84	1.335	1.115	10.805	13.255
Tetley Tea (7/20/87)	8/01/89	1.820	1.015	12.00	14.835
	8/01/88	1.720	1.015	11.50	14.235
	8/01/87	1.620	1.015	11.00	13.635
	5/01/86	1.520	1.015	10.50	13.035
	5/01/85	1.400	0.750	9.75	11.90
	5/01/84	1.270	0.250	9.25	10.77
TLI, Incorporated (6/04/88)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.230	14.23	17.835
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735
Transcon Lines (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Tremson Corp. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Tri-Maintenance & Cont. Inc. (10/01/87)	10/01/89	1.14	0.30	8.00	9.44
	10/01/88	0.97	0.20	7.50	8.67
	10/01/87	0.80	0.10	7.00	7.90
	10/01/86	0.63		6.50	7.13
	10/01/85	0.63		6.25	6.88
	10/01/84	0.36		6.00	6.36
Tri-State Install. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Tuxedo Enterprises (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Union Camp Corp. (4/01/88)	4/01/90	1.825	0.545	11.92	14.29
	4/01/89	1.675	0.545	11.56	13.78
	4/01/88	1.525	0.545	11.25	13.32
	4/01/86	1.375	0.545	10.55	12.45
United Wire Hanger Corp. (12/01/86)	12/01/88	0.90	0.30	7.95	9.15
	12/01/87	0.85	0.25	7.85	8.90
	12/01/86	0.80	0.25	7.75	8.75
	12/01/85	0.65	0.25	7.75	8.65
	12/01/84	0.61	0.20	7.75	8.56
Utility Concrete Co. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Valley Landscaping Inc. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Vitarroz Corporation (1/01/88)	1/01/90	1.34	0.31	8.575	10.225
	1/01/89	1.19	0.31	8.125	9.625
	1/01/88	1.04	0.31	7.675	9.025
	1/01/87	0.85	0.35	7.425	8.625
	1/01/86	0.80	0.30	7.175	8.275
	1/01/85	0.75	0.25	6.875	7.875
Vollers Construction (4/01/88)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
W & T Trucking (4/01/85)	4/01/88	1.675	2.480	15.08	19.235
	4/01/87	1.425	2.380	14.73	18.535
	4/01/86	1.375	2.330	14.23	17.935
	4/01/85	1.375	2.230	13.73	17.335
	4/01/84	1.325	2.180	13.23	16.735

NAME (Contract Eff. Date)	Effective Date	H&W Hourly Rate	Pension Hourly Rate	Wages Hourly Rate	TOTAL
Wallington Hardware & Roofing (4/01/88)	4/01/90	1.795	1.145	12.10	15.04
	4/01/89	1.675	1.145	11.50	14.32
	4/01/88	1.555	1.145	10.90	13.60
	4/01/87	1.425	1.145	10.30	12.87
	4/01/86	1.325	1.145	9.70	12.17
	10/01/84	1.225	1.145	9.20	11.57
Wasco Products, Inc. (JS) (5/01/87)	5/01/88	1.925	2.620	17.30	21.845
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Zak Construction L P (JS) ((5/01/88)	5/01/88	1.925	2.620	17.30	21.595
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195
Zuccaro & Sons, Inc. (JS) (5/01/88)	5/01/88	1.925	2.620	17.30	21.595
	5/01/87	1.675	2.620	16.75	21.045
	5/01/86	1.675	2.370	16.15	20.195

STATEMENT
OF
EUGENE R. ANDERSON
BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ON
APRIL 6, 1989

Mr. Chairman and Members of the Subcommittee, it is a pleasure and honor to have the opportunity to submit a statement in connection with your hearings regarding the effectiveness of trusteeships imposed upon unions pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO").

In accordance with an Order of Appointment dated March 19, 1987, I was appointed trustee for Local 6A and the District Council of Cement and Concrete Workers, Laborers International Union of North America, my term as trustee having begun on April 6, 1987. Local 6A and the District Council agreed to my appointment as trustee as part of a settlement of the civil RICO action brought by the United States Attorney for the Southern District of New York against the two union entities and the officers of both entities.[1] It is my understanding that the civil RICO action that resulted in my appointment as trustee was made possible by evidence uncovered in the successful prosecutions of the so-called "Colombo Family Case"[2] and the so-called "Commission Case"[3] by the United States Attorney for the Southern

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[1] United States v. Local 6A, et al., No. 86 Civ. 4819 (VLB) (S.D.N.Y. filed June 19, 1986).

[2] United States v. Persico, No. S 84 Cr. 809 (JFK) (S.D.N.Y. filed October 24, 1984).

[3] United States v. Salerno, No. S 85 Cr. 139 (RO) (S.D.N.Y. filed February 26, 1985).

District of New York. One of the defendants in the Commission Case was Ralph Scopo, then President of the District Council of Cement and Concrete Workers. In November 1986, Mr. Scopo was convicted in the Commission Case and sentenced to a 100 year prison term.

My duties and powers as trustee are derived from the Judgment (On Consent) Against Union Defendants dated March 18, 1987 ("Consent Judgment"). Although the Consent Judgment removed from office many of the then officers of Local 6A and the District Council, it allowed for certain persons to remain as officers of Local 6A and the District Council. Accordingly, unlike the cases of Teamsters Local 560[4] and Teamsters Local 814[5] where all union officers were removed from office and the trustees stand in the shoes of those officers and actually run the day-to-day affairs of the union, my trusteeship is more in the nature of supervising the running of the union by the union officers. I believe that such a limited mandate is not and cannot be as effective as a trusteeship where the trustee essentially controls all aspects of the union's business.

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[4] See United States v. Local 560, International Brotherhood of Teamsters, 780 F.2d 267 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986).

[5] United States v. The Bonanno Organized Crime Family of La Cosa Nostra, et al., No. 87 Civ. 2974 (ILG) (E.D.N.Y. filed August 25, 1987).

As I understand the goal of union trusteeships, it is to rid the union of any corrupt influences and eventually return the union to its members by succeeding in having militant, democratic and honest members of the rank and file elected to union office. In that regard, the problems with a trusteeship structured along the lines of mine are basically twofold. First, the officers that were permitted to remain in office are viewed by the rank and file as part of the old regime regardless of whether such a view is justified. Perception is stronger than reality. As a result, the rank and file is reluctant to challenge the union officers that were permitted to remain in office.[6] This reluctance was perhaps most evident when not a single office was contested in the elections I held in the latter part of 1987.

Second, it is my opinion that if a trustee is to have any success at convincing a member of the rank and file to rise to a leadership position in the union, the trustee must have the hands on, day-to-day responsibility of running the union and not merely a position of watchdog that oversees the operation of the union by the officers in power. The trustee must have control, and not be relegated to an ivory tower. I believe that only if the trustee becomes in effect the union leadership can a relationship of trust develop with the rank and file and can the rank and file eventually feel that they can safely assume control over their own destinies.

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[6] I am not at all suggesting that the present union officers of Local 6A and the District Council are in any way corrupt. In fact, it is my understanding that the union officers were permitted to remain in office because there was insufficient or no evidence of any corruption on their part.

This is not to belittle the significance of my trusteeship and the extent of the powers that I possess. Indeed, under certain circumstances I have the power to remove from their position any officer, supervisor, agent, representative or employee of Local 6A or the District Council. In addition to other powers, I have the power to veto any expenditure or gift of Local 6A or the District Council and under certain conditions may prevent Local 6A or the District Council from entering into a contract. Moreover, I had sole authority for conducting the elections of officers of Local 6A and the District Council that were held in the latter part of 1987 and will have the same powers when I conduct elections in the latter part of 1990 at the conclusion of my trusteeship.

Furthermore, I have certain investigative powers pursuant to the Consent Judgment. However, any thorough investigation that might uncover corruption cannot be undertaken at a reasonable cost by me or by any private investigator which I might be authorized to retain under the Consent Judgment. My investigative powers are meaningless without the money or other resources to conduct an investigation. It is thus my view that it is imperative that future trusteeships provide some mechanism by which government resources are available to the trustee for investigations.

The problem of adequately funding a trusteeship does not end there. Even the day-to-day functioning of a trusteeship requires funding, the full extent of which may not be able to be borne by the union. Although Local 6A and the District Council had healthy treasuries, their treasuries were depleted by the extraordinary sums of money spent by Local 6A and the District Council on legal fees in defending the civil RICO action that resulted in my appointment and on legal fees in defending at least one union officer in certain criminal cases. When I became trustee of Local 6A and the District Council, the financial outlook for both Local 6A and the District Council was bleak. As a result, it was problematic for me even to hire an accountant to review the books and records of Local 6A and the District Council. Indeed, the District Council continues to be unable to pay its allotted share of the regular functions of my trusteeship. Inasmuch as I do not believe that trusteeships should result in union bankruptcy, I consider it important that, when necessary, some alternative to the union treasuries be found for the funding of trusteeships.

In addition to adequate resources and funding, I believe that any trusteeship would benefit if the resources of an honest and cooperative International were available in such fundamental, yet crucial, areas as union democracy, leadership development, safety training and other educational programs. My efforts to obtain the assistance of the Laborers International Union in this regard were not fruitful. After a series of telephone conversations, it was clear that the leadership of the Laborers International Union did not want to meet with me. Once rebuffed, I did not pursue the matter any further.

On a positive note, my appointment as trustee has had a therapeutic effect on Local 6A and the District Council. Both Local 6A and the District Council have taken a closer look at themselves and are learning to run a tighter ship with all the proper formalities and accounting. With the assistance of Mr. Nicholas A. DiArchangel, Jr., the Executive Administrator I retained, the present union officers are beginning to better understand their role as union leaders and a growing sense of pride is evident in the rank and file. I can also safely say that, at least on the surface, there is no evidence of corruption.[7] Nor do I expect there to be during my term as trustee as the union officers are fully aware that their union activities are subject to close scrutiny.

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[7] I have received information concerning possible criminal activities within other locals that are part of the District Council. I have investigated where appropriate and have otherwise referred these matters to the prosecuting authorities.

The real success of my trusteeship can only be measured once the trusteeship ends. If corrupt influences proceed to infiltrate the union once again, the trusteeship will certainly have failed in its objective. Given the nature of my trusteeship as previously discussed, I, unfortunately, would not give assurances that the objective will be met.

Moreover, corruption in the New York City construction industry is pervasive and long-entrenched, involving contractors, suppliers, organized crime families, and a multitude of unions. It is my belief that any act of corruption is not generally an isolated event, but part of a much larger problem that requires coordinated law enforcement and significant structural reform, not merely imposition of trusteeships, to solve.[8]

One final point. As trustee, I have sent several newsletters to the entire union membership. The newsletters always prompt a number of telephone calls from union members. Many of the calls concern problems with dues, pension payments, and the like. The most serious complaints relate to the lack of work and charges of discriminatory hiring practices. I have attempted to deal with these complaints on a case-by-case basis, but wish to note that the overall problem of minorities and the construction industry is beyond my control and probably, and rightfully, my mandate. I think it is significant, however, that there is an obvious lack of proportional minority representation in the leadership of both Local 6A and the District Council.[9]

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[8] See President's Commission on Organized Crime, Report to the President and the Attorney General, The Edge: Organized Crime, Business, and Labor Unions (March 1987) at 217-240; New York State Organized Crime Task Force, Corruption and Racketeering in the New York City Construction Industry - An Interim Report (June 1987).

In conclusion, I believe the existing union trusteeships to be a good experiment and endorse their continued use. It is my hope that the experiences of myself and the other few trustees, together with the information gathered by this Subcommittee, will result in the more effective use of trusteeships in the future.

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9. Based upon attendance at Local 6A membership meetings, it appears that 30% to 40% of the rank and file are black. When my trusteeship began, there were no blacks in the union leadership. This fact was discussed with the union officers. In the uncontested elections I conducted in 1987, one black was placed on Local 6A's Executive Board, one black was placed in a position as auditor for Local 6A and one black was placed on the District Council's Regular Board. I do not know whether this change was a result of my discussions.

ADDITIONAL QUESTIONS

FOR THE

HEARING RECORD

Eugene R. Anderson
Trustee, Local 6A
and the District Council of Cement and Concrete Workers,
Laborers' International Union of North America
New York, New York

* * * *

Q. On April 4, 1989, the General President and the General Counsel of the International Brotherhood of Teamsters testified here, vigorously opposing the imposition of any RICO trusteeship on a labor union. They argued that RICO trusteeships "contravene established doctrines of Federal labor law and union democracy." Do you agree?

A. With respect to "established doctrines of Federal labor law", I am not a labor lawyer and therefore I am not qualified to comment.

With respect to "union democracy", I disagree. One of the reasons that RICO trusteeships are imposed is because the principles of union democracy are being abused and twisted by corrupt union officials. A trustee's mandate is to return control of the union to the rank-and-file through properly elected officials who use their powers legitimately. With respect to my trusteeship in particular, union democracy is not stifled. In fact, I do not have the power to influence the democratic processes of the union. Moreover, if I had thought that my trusteeship would necessarily interfere with the democratic processes of the union, I would not have accepted the position.

Q. The General President and General Counsel of the Teamsters also stated that

> A trustee, whose role is that of a 'cop,' cannot obtain the loyalty and support of the rank-and-file membership. Indeed, as the experience with Local 560 makes clear, a RICO trustee is likely to become a symbol of oppression and the rallying point for a counter force.

Do you agree?

A. As my trusteeship is structured, contact with the rank-and-file is limited, and I do not believe that it is possible to obtain "loyalty and support" without fairly extensive interaction with the rank-and-file. In any event, I do not think that a trusteeship is a popularity contest. However, if the rank-and-file membership understands the functions and goals of a trustee (in my case, to keep the union free of corruption and to conduct a free and open election of union officers), clean and honest union members should not resent the "cop" role played by a trustee. Indeed, any good leader, whether corporate president or union official, must police his organization as part of his management responsibilities. To the extent that a trustee does become "a symbol of oppression" and "the rallying point for a counter force", I cannot help but be suspicious of how and why those perceptions are created.

Q. What has been the single biggest problem or frustration you have experienced in your role as trustee, administrator, or chief liaison officer?

A. The single biggest frustration was holding the 1987 elections with uncontested slates.

Q. Of all the authority given to you by the court, what power was the most important to you, as a practical matter?

A. The power to run the union elections is most important to me. It is this power that allows me to encourage participatory democracy and, hopefully, have the union run by its members by succeeding in having militant, democratic, and honest members of the rank-and-file elected to union office.

Q. Have you seen any evidence of continued corruption or organized crime influence after your appointment by the court?

A. There have been some allegations of criminal misconduct. I believe that it would be inappropriate to reveal the specific allegations as some are the subject of ongoing investigations and disclosure might compromise the identity of a confidential informant. All of the allegations have been referred to the United States Attorney's Office for the Southern District of New York, the New York City District Attorney's Office, or both.

Q. Have the rank-and-file Union members received any benefits, either tangible or intangible, as a result of your trusteeship? If so, explain.

A. In an effort to make my trusteeship as beneficial as possible to the rank-and-file, I engaged in a careful selection process to retain an Executive Administrator who had extensive experience with labor unions, who was familiar with the problems faced by the rank-and-file, and who could share ideas for various programs and improvements with union leadership. As a result of the efforts of my Executive Administrator, Mr. Nicholas A. DiArchangel, Jr., I believe that the rank-and-file members have received the benefit of more aware, informed and responsive union officers. I like to think that the union members now realize that the trusteeship was not designed to take their union away from them, that their union is indeed their union, and that the trusteeship may provide an avenue for additional members to achieve positions of leadership in the 1990 elections.

Q. Did your presence have any detrimental effect on the Union's ability to negotiate contracts? Did any of these contracts result in a diminution in benefits to the rank-and-file members? If so, what was the reason for this loss in benefits and/or wages?

A. Under the consent judgment that resulted in my trusteeship, any involvement with the collective bargaining process was expressly excluded from my jurisdiction. In fact, I let it be known publicly that my trusteeship should not have any impact on the collective bargaining process, and I have been told and believe that it did not. It is my understanding that the collective bargaining agreement negotiated during my tenure resulted in an increase in wages and no diminution in benefits. In addition, I understand that the union officers and rank-and-file members were pleased with the collective bargaining agreement.

Q. To what extent have you been able to carry out investigations of alleged improprieties? Have you been satisfied with the results of those investigations? Would they have benefitted by increased support from the FBI and other law enforcement agencies?

A. I have done what I could to investigate alleged improprieties, but without greater funding, my investigations necessarily are limited in scope. I have referred allegations to the United States Attorney's Office for the Southern District of New York and to the New York

City District Attorney's Office. I believe that increased and organized involvement of law enforcement agencies would assist in investigations of alleged improprieties. There needs to be an understanding that once a union is placed into trusteeship, the law enforcement case, in a sense, is just beginning.

Q. Could your trusteeship have used assistance from the Federal Government's regulatory branch? If so, explain.

A. As discussed below, although my contact with the Department of Labor has been limited to date, the Department of Labor has been extremely cooperative, and I plan to utilize this resource more extensively in the future. I believe that the involvement of the Department of Labor will prove beneficial in creating programs relating to union democracy, education, and leadership, and assisting with union elections.

Q. To what extent do you interact with the Department of Labor? Have you been satisfied with their cooperation?

A. I have had limited interaction with the Department of Labor to date. For example, I have requested information from the Department of Labor with respect to my study concerning the reasonableness of the salaries and benefits being earned by union officers. The Department of Labor has been extremely cooperative, and I plan to ask for more help in the future. My Executive Administrator already has held a meeting with the Department of Labor to analyze ways in which the 1990 elections can be made more democratic and result in increased membership participation.

Q. Currently, most RICO trusteeships are funded by the entity that is placed in trusteeship. Some trusteeships could not be adequately supported by the affected entity, due to a lack of financial resources. If the Government provided an alternative form of funding for trusteeships, would that in itself remedy many of the problems now being experienced by your trusteeship?

A. Yes, if the Government provided an alternative form of funding for trusteeships, it would have a substantial positive effect.

Q. What methods or programs have you used to educate the rank and file as to the trusteeship, their rights, their pensions, regulations, etc.? Were these programs effective?

A. I have utilized newsletters to explain aspects of my trusteeship to the rank-and-file. I have also utilized newsletters to explain, in general terms, the rights of union members. These newsletters were mailed to each and every union member. My Executive Administrator, Mr. Nicholas A. DiArchangel, Jr., addressed the rank-and-file at a Local 6A membership meeting with respect to safety and health issues. On a number of occasions, Mr. DiArchangel and Robert A. Gaynor, my former designee and principal legal counsel, have had conversations with union members, either in person or by telephone, concerning a variety of union-related questions, including questions regarding pension benefits. As the union pensions are not within my jurisdiction as trustee, all questions relating to pensions have been referred to the offices of the union's pension fund. As mentioned above, I hope to implement more formal educational programs with the union members in the near future. I believe that my efforts thus far to educate the rank-and-file membership have been effective. My newsletters generated favorable telephone calls, and Mr. DiArchangel's presentation on safety and health was well received.

Q. How have you been received by the rank-and-file members of the Local Union?

A. My first contact as trustee with the rank-and-file membership was one evening at a Local 6A membership meeting. I was introduced to the membership by Local 6A's business manager and received a rousing round of applause. Although my reception may have been somewhat orchestrated, I was still surprised at the ovation. Because my trusteeship is in the nature of a watchdog, interaction between my designee, myself, and the rank-and-file is fairly limited. Although I have received a number of telephone calls from union members asking for assistance, most of those calls were anonymous.

Q. Has your trusteeship had any effect on the way the affected industry conducts its business? Or is the trusteeship unable to exert an effect on the industry as a whole?

A. The short answer to this question is no. Even with greater powers, I do not believe that my trusteeship would exert an effect on the concrete industry as a whole.

Q. What specific recommendations do you have as to the use of the civil provisions of RICO, the creation of trusteeships, and the relationship between a trusteeship and the Government?

A. I believe that the use of RICO to create trusteeships is a very good experiment. I think that this use reflects the widely held belief that you do not keep crooks in power, whether we are talking about unions, businesses or the Government. I view the trustee as a creature of the court that must work with both the Government and the union. I view this as a comfortable relationship because neither the Government nor the union "calls the shots". The final chapter regarding RICO and trusteeships will be written in the future. So far, I believe this experiment is working reasonably well as people "feel" their way through the process.

Q. Could you analyze the effect your trusteeship had on the 1987 District Council and Local 6A elections? What, if anything, can you do to ensure that the 1990 elections are more democratic in nature?

A. I believe my trusteeship had very little effect on the 1987 District Council and Local 6A elections. Although all the elections were uncontested, I hope that the rank-and-file members recognized that because of the trusteeship, a process was implemented that would allow for a free and open election. I intend to further that process in the 1990 elections by having secret nominations in addition to secret ballots. If I had more money available to me, I would institute some educational programs in an effort to locate union members with the potential and desire for union leadership.

Q. In your statement, you indicate that you have discovered elements of racial discrimination in Local 6A and the District Council. What is the extent of the discrimination, and what steps can be taken to rectify the situation?

A. The extent of racial discrimination is a serious problem in the New York construction trades and is a problem that must be solved in a context much broader than Local 6A and the District Council. Based upon attendance at Local 6A membership meetings, it seems that 30% to 40% of the membership is black. When my trusteeship began, there were no blacks in the union leadership. My designee and I discussed our observations with the union officers, and in the uncontested elections of 1987, one black was placed on the Executive Board, one black was placed in a position as auditor for Local 6A, and one black was placed on the Regular Board of the District Council.

Whether this was a result of our discussions, I do not know.

Q. Can a trustee, given the proper powers, eliminate discriminatory practices in a Union or other entity?

A. Prejudices are deep-seated and discriminatory practices in the New York construction trades go far beyond the problems in Local 6A. I believe that, unfortunately, racial prejudices will be with us for many years to come and, as a result, I do not believe that a trustee can eliminate discriminatory practices in a union or other entity. However, given very broad powers, powers that might be considered reverse discrimination, a trustee could in my view alleviate some of the discriminatory practices in a union or other entity.

* * * *

I am in receipt of a document entitled "Statement Submitted by Angelo Fosco, General President, On Behalf of the Laborers' International Union of North America, Before the Permanent Subcommittee on Investigations, United States Senate, For Use at Its Hearings on Federal Government's Use of Trusteeships Under the RICO Statute". I believe that my written statement dated April 6, 1989, the Witness Sheet, and the testimony which I have given to this subcommittee accurately reflect the substance of my trusteeship's contacts with the Laborers' International Union.

STATEMENT OF FRANK H. WOHL
ADMINISTRATOR OF THE FULTON FISH MARKET, NEW YORK CITY
BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

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STATEMENT OF FRANK H. WOHL
ADMINISTRATOR OF THE FULTON FISH MARKET, NEW YORK CITY
BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

INTRODUCTION

On May 3, 1988, Judge Thomas P. Griesa of the United States District Court for the Southern District of New York appointed me Administrator for the Fulton Fish Market in New York City, pursuant to a consent judgment entered into in United States v. Local 359, United Seafood Workers, Smoked Fish & Cannery Union, AFL-CIO, et al., 87 Civ. 7351 (S.D.N.Y. filed Oct. 14, 1987) (the "Fulton Fish Market Case"). This complaint, filed pursuant to the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1962 and 1964, alleged that several groups of defendants, including the "Genovese Organized Crime Family of La Cosa Nostra" and 29 persons, were involved in a range of racketeering activities at the Fulton Fish Market. The government sought the appointment of an Administrator to monitor the Market and enforce a civil injunction aimed at eliminating the illegal practices that the government claims have supported organized crime in the Fulton Fish Market.

My statement will focus on my activities as administrator. To put these activities in perspective, however, one must first understand the workings of the Fulton Fish Market and its history.

I. THE FULTON FISH MARKET

The Fulton Fish Market is the center of New York City's multi-million dollar wholesale seafood industry. Each year, over 100 million[1] pounds of seafood pass through the Fulton Fish Market and its approximately 100 wholesale fish suppliers[2] before distribution to consumers in the New York metropolitan area and other parts of the United States.

The Fulton Fish Market is located in a five-block area of lower Manhattan, south of the Brooklyn Bridge along the East River. Wholesalers own, lease or sublease their stalls located on either side of South Street. Many of the wholesalers have been in business for generations; others for less than a year. Other businesses located in the Market include an ice business, small trucking companies and loading and unloading companies.

Because seafood is a perishable commodity, speed -- from the time the seafood is caught until the time it is offered for sale at retail outlets -- is essential to profitability. The wholesalers receive, sell and deliver during a few frenetic early-morning hours. Retailers who come to the Fulton Fish Market during that period buy only the seafood displayed in front of them. This necessity for speed renders the wholesalers extremely vulnerable to threats of delay and, thus, to extortion.

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[1] The estimates come from news agencies, the United States Marine & Fisheries Agency and Market spokesmen, and vary from 90 million to 450 million.

[2] Again, estimates of the number of wholesale fish suppliers vary from seventy to one hundred.

A. Fulton Fish Market Operations[3]

Market activities begin each midnight, five nights a week -- Sunday night/Monday morning through Thursday night/Friday morning. At that time, trucks from up and down the east coast of the United States deliver seafood to the Market. Additional quantities of fish from the gulf and west coasts of the United States and from around the world are flown into John F. Kennedy International Airport in New York City and then transported by truck to the Market. The seafood is usually packed in wooden boxes in quantities of 100 pounds or less.

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[3] Unless otherwise noted, the information in this section is derived from government affidavits filed in the Fulton Fish Market Case, the Court's opinion following the trial of the union defendants in the action, Fulton Fish Market Case, slip op. at 12-14 (S.D.N.Y. Jan. 24, 1989), and observations or information collected by my staff. To date, the consenting defendants have failed to respond in any meaningful way to my requests for information.

Once at the Market, the wholesalers pay one of seven unloading crews[4] approximately $1.35 per 100-pound box[5] to unload the seafood from the trucks and place the boxes of seafood on the ground. Members of the unloading crews cart the seafood to the wholesalers, where they place it in front of their stalls. Journeymen employed by the wholesalers then prepare the fish for display.

At approximately 3:00 a.m., retailers arrive at the Market to purchase seafood for retail seafood stores and restaurants. The retailers park their cars or vans at one of eleven parking enterprises, nine of which are located on the public streets in the Market, and two of which are located on an East River pier adjacent to the Market. Loaders employed by the parking enterprises assign retailers to a particular parking area; once assigned, retailers allegedly cannot park in any other parking area. Their vehicles are marked with numbers indicating the parking area and location of the vehicle. The retailers pay the loaders a fee of between $30 and $50 weekly for parking, security guard services, and loading the fish purchased at the Market into the retailers' vehicles.

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[4] The unloading crews appear to divide the unloading business among themselves according to the origin of the trucks.

[5] This price is based on interviews conducted by my staff.

The retailers leave their vehicles unlocked at their assigned parking areas and walk around the market visiting the wholesale fish stalls inspecting the available seafood. When a retailer purchases a quantity of seafood from a wholesaler, the wholesaler marks the boxes with the numbers assigned to that retailer's vehicle. The wholesaler's journeymen, most of whom belong to Local 359 of the United Seafood Workers, Smoked Fish & Cannery Union, United Food and Commercial Workers of the AFL-CIO, then deliver the boxes of seafood to the retailer's vehicle, where a loading crew loads the boxes onto the vehicle. Most of the retailers have left the Market by 8:00 a.m.

The loading and unloading crews are independent enterprises. Most of their employees do not belong to a union.

B. Law Enforcement History of the Fulton Fish Market

1. Previous Investigations and Prosecutions[6]

Control of the Market by organized crime dates to the 1920's, when Joseph "Socks" Lanza, a Capo in the Genovese crime family, dominated Local 359, serving as its business agent.[7] Wholesalers who refused to comply with Lanza's dictates were driven out of business. By 1934, the Fulton Market Fish Mongers Association, comprised of individuals representing various wholesalers in the market, recognized that it was more effective to pay Lanza's protection racket than to report crimes to the police. "Market Men 'Glad' to Buy Protection," New York Times, January 16, 1934 at 8, col. 1. New York City Commissioner of Markets, William Fellows Morgan, Jr., noted at the time that:

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[6] Unless otherwise indicated, the information in this section is derived from United States v. Romano, 5581 Cr. 514, Sentencing Memorandum filed by the United States (S.D.N.Y. Jan. 4, 1981).

> Many [Fulton Fish Market] dealers believe they must pay a shakedown to stop thievery. They pay this money to phoney protective organizations and merchants feel that it is cheaper to pay these guerrillas to stop thievery than to hire their own special policemen.

"Morgan Prepares For Racket Fight," New York Times, January 10, 1934 at 3, col. 6.

Lanza was convicted in 1938, United States v. Joseph Lanza, et al., Cr. 96-90 (S.D.N.Y.), but he continued to control the Fish Market for the next two decades. In 1957, when Lanza's parole was revoked for a number of offenses including gambling and associating with "notorious criminals and known racketeers," Report of Violation of Parole, New York State Division of Parole, April 11, 1957, at p. 1 ("Report of Violation of Parole"), his continued control of the Fulton Fish Market was described:

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[7] The Genovese family is one of the crime families of the La Cosa Nostra operating in the New York area. See Statement of Captain Vincent Parolisi of the New York City Police Department before the U.S. Senate Permanent Subcommittee of Investigation Hearings on Organized Crime: 25 Years after Valachi.

> Joseph Lanza, through his family and combination, continues to control the Fulton Fish Market. Specifically, this operation consists of shakedown of loaders, labor racketeering and the cornering of the shrimp, scungilli, halibut produce market. It has been reported to us that Lanza owns and/or controls certain businesses in the fish market, that not one fish boat is unloaded without Lanza's combination getting his cut....[Quoting a source from the Fulton Fish Market]: 'He has always been the boss in the Fish Market. He is still the boss; if you send him back [to prison] for ten years he will still be the boss.'

Report of Violation of Parole at p. 7.[8]

The New York City Police Department, the Internal Revenue Service and the United States Department of Labor undertook a joint investigation of the Fulton Fish Market in 1979. This investigation indicated that organized crime continued to control commerce in the Fulton Fish Market. As a result of the NYCPD/IRS/DOL investigation, Carmine Romano, his brother Peter Romano, and five others with close ties to the Genovese Family and Local 359 were indicted for criminal RICO violations. United States v. Romano, 684 F.2d 1057 (2d Cir. 1982). The indictment alleged that Carmine and Peter Romano ran the Fulton Fish Market and Local 359 through a pattern of racketeering activity which included extortion, illegal labor payoffs, misuse of pension and welfare funds and obstruction of justice.[9]

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[8] Joseph Lanza's brother, Nunzio "Harry" Lanza, was also involved at the Fulton Fish Market as an official of Local 359 during the 1960's. He, too, was an alleged Capo in the Genovese crime family.

At trial, the government proved, among other things, that Carmine Romano had created a watchman's service called the Fulton Patrol Service, which collected over $644,000 from the wholesale fish merchants located at the Market between 1975 and 1981. Id. at 1061. During this period, theft of fish dropped dramatically, even though the deficiencies in the Patrol's operations were manifest: one of the watchmen was a known kleptomaniac; and a number of the watchmen listed on the payroll did not exist -- in fact, there were only two watchmen who worked for the Patrol. Id. The evidence also showed that between 1975 and 1981, the union systematically collected "Christmas payments" from the wholesalers, id. at 1062, and charged the wholesalers $25 per month for the rental of cardboard union signs. Id. Various wholesalers testified that these payments were necessary to run their businesses. Id. Based on their fear of Romano and his associates, other wholesalers chose to suffer six months' imprisonment rather than testify at trial. Id. at 1065 n.7.

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[9] From 1974 until 1980, Carmine Romano served as Secretary-Treasurer of Local 359. His brother Peter assumed that position in 1980. Carmine then became Executive Administrator of the Fulton Fish Market Welfare and Pension Trust Funds, a newly-created position that paid a salary of $650 per week. United States v. Romano, 684 F.2d at 1060. The NYCPD/IRS/DOL investigation also revealed that the Lanzas' associates and relatives remained involved with Local 359. The then President, Louis DeMeo, was the Lanzas' brother-in-law. Donald McCabe, the union's attorney, was Harry Lanza's son-in-law. The union's business agent, Carmine Russo, was a close associate of the Lanzas', and was allegedly a member of the Genovese Family.

Following the trial, judgments of conviction were entered against the Romanos for violation of RICO, conspiracy to violate RICO and aiding and abetting violations of the Taft-Hartley Act. In addition, Carmine was convicted of misusing pension funds, and Peter was convicted of obstruction of justice and perjury before a grand jury. Id. at 1059. The Court sentenced Carmine Romano to a prison term of twelve years and fined him $20,000. Peter Romano was sentenced to 18 months. Both were required to forfeit their offices in Local 359.

When Carmine and Peter Romano began serving their sentences, their brother, Vincent Romano, allegedly assumed responsibility for running the Fulton Fish Market on behalf of the Genovese family. The Fulton Fish Market Case, 87 Civ. 7351, Complaint filed Oct. 14, 1987, ¶ 43 ("Complaint").

2. The "Sea Probe" Investigation and the Fulton Fish Market Case

In 1984, a joint organized crime task force consisting of the Federal Bureau of Investigation and the New York City Police Department began another investigation, dubbed "Sea Probe," into the Fulton Fish Market. This investigation continued for two and a half years and included hundreds of hours of wiretapping and surveillance. The investigation caused the government to conclude that organized crime continued to control the Market and that the prior criminal prosecutions had not fully eradicated organized crime from the Market. The United States Attorney's office for the Southern District of New York therefore proceeded with a civil RICO action seeking broad injunctive relief.

II. THE FULTON FISH MARKET CASE

The complaint in the *Fulton Fish Market Case* named as defendants twenty-nine individuals. The complaint named as an additional defendant the Genovese Organized Crime Family (LCN) and alleged that Vincent Romano was the Genovese representative in the Market. The government also asserted claims against Local 359 and its executive officers and the executive administrator and the two trustees for the Union's welfare and pension funds.

The government stipulated to the dismissal of the executive administrator and welfare and pension fund trustees in December 1987. The other union defendants were ultimately dismissed from the case following a trial of the action. See discussion at pp. 24-25, *infra*. My discussion of the complaint, therefore, will focus on those allegations that pertain directly to the relief agreed to in the Consent Judgment authorizing my appointment.

A. The Government's Complaint

The government alleged in the *Fulton Fish Market* complaint that the Genovese Family and other defendants routinely extorted payment of money from businesses and individuals doing business in or about the Fulton Fish Market. The government further alleged that the defendants bore responsibility for thefts from interstate shipments, loan sharking, wire fraud and illegal gambling activities in the Fulton Fish Market. Many of the complaint's allegations indicated that the practices initiated by Lanza in the 1920s and 30s, and perpetrated by Carmine and Peter Romano in the 1970s, continued to exist.

In particular, the government alleged that the Genovese Family manipulated the Fulton Fish Market through its control of the unloading crews. The government further alleged that Vincent Romano, as a representative of the Genovese crime family, determined the geographical market share of the unloading crews, and received portions of their revenues. Complaint ¶¶ 50, 51. The unloaders then informed shippers of Romano's orders. The unloaders' directives were allegedly enforced by actual or threatened violence, thefts, work slowdowns or stoppages. Id. ¶ 52.

The Complaint claimed that the retailers were victims of extortion and theft by the loaders. Id. ¶ 53. The government alleged that Romano assigned parking facilities and received undisclosed portions of the loaders' revenues. Id. Retailers who parked on public streets and refused to pay the parking and loading fee allegedly would find their vehicles vandalized or their fish stolen. Id. Finally, the government alleged that Romano and his associates collected "protection" money from wholesalers operating in the Market, again enforced by threats of vandalism, theft or work slowdowns. Id. at ¶ 57.

On December 8, 1987, the government moved for a preliminary injunction, seeking prohibitory injunctions against the defendants, appointment of an administrator to oversee the day-to-day operations of the Market and to prevent resurgence of racketeering activity in the Market, and removal of the Executive Board of Local 359 and its replacement pendente lite by a court-appointed trustee. The government requested that the Administrator be authorized to: (i) investigate the practices of businesses operating in or about the Fulton Fish Market, especially the unloading and loading operations; (ii) take sworn testimony and inspect the books and records of the businesses to monitor compliance with the injunctions; (iii) bring to the Court's attention any failure to comply with the prohibitory injunctions; and (iv) promulgate and implement appropriate rules and regulations governing business practices in the Fulton Fish Market. The government also suggested that the Administrator be allowed to apply to the Court for any additional powers necessary and appropriate for the prevention of racketeering activity.

B. The Consent Judgment

On April 15, 1988, twenty-five of the twenty-nine individual defendants entered into a Consent Judgment and three others allowed a default judgment to be entered against them.[10] The consenting defendants agreed, without admitting the truth or validity of the allegations contained in the Complaint, to injunctions prohibiting the alleged racketeering practices and to the appointment of an administrator. (The Consent Judgment is attached as Exhibit 1.)[11]

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[10] One named defendant, Anthony Crivelli, died during the pendency of this action.

[11] The majority of the consenting defendants are employed by, or have an interest in, the unloading companies and parking entities operating in the Market.

1. Injunctive Relief

The injunctions agreed to in the Consent Judgment limit the involvement of certain defendants in the Market and prohibit certain activities by the defendants or persons acting in concert with them. First, the Consent Judgment permanently enjoins Carmine and Vincent Romano from owning, operating, participating in or having any interest in any business or entity operating in or about the Fulton Fish Market and from having any dealings with any officer, agent, representative or employee of Local 359. Consent Judgment ¶ 1. Second, the Consent Judgment also requires six other defendants to notify the Administrator of any business relationship or interest in or about the Market and enjoins them from future contacts with Local 359 representatives (except for employment of Local 359 members). Id. ¶ 2. Third, the Consent Judgment prohibits all defendants from engaging in illegal activities such as extortion, theft and gambling, as well as colluding, conspiring or agreeing with any other person to perform such acts. See Consent Judgment ¶¶ 3(a)-(m). These injunctions apply not only to the twenty-five consenting individuals, but also to "all persons in active concert or participation with them."

The Default Judgment entered against Thomas Contaldo, Colombo Saggese, and Robert Gillio (as well as the Genovese Crime

Family of La Cosa Nostra), all of whom failed to appear in the case, contains the identical injunctions set forth in the Consent Judgment. It also permanently enjoins the defaulting defendants from any involvement with Local 359 or any business or entity related either directly or indirectly to the Fulton Fish Market, and prohibits them from participating in any way in the seafood business anywhere. Default Judgment, ¶¶ 1-3.

2. The Appointment of an Administrator

To ensure and promote compliance with the injunctions, both the Consent and Default Judgments require the appointment of an Administrator. Consent Judgment ¶ 4; Default Judgment ¶ 3.

The Consent Judgment grants the Administrator the power to: (a) "monitor and encourage compliance with the [Court's] injunctions ... and to bring to the [Court's] attention any evidence of failure to comply;" (b) "investigate, whether in response to a complaint made by any person or otherwise, any acts and practices in or about the Fulton Fish Market that the Administrator reasonably believes may violate any injunction issued by the Court;" (c) "take sworn testimony and to inspect the books and records of individuals, businesses, or other entities associated with the Fulton Fish Market ...;" (d) "propose upon consultation with all affected businesses and to implement ... appropriate rules and regulations to promote compliance with the injunctions issued by the Court...." Consent Judgment ¶ 4 (a)-(d).

The Administrator may impose appropriate sanctions upon individuals who violate any term of the Consent Judgment. Id. at ¶ 5. Potential sanctions include, but are not limited to, public posting of the violation, fines, suspension and debarment from working or doing business in or about the Fulton Fish Market. Id.[12]

To fulfill the role contemplated by the Consent Judgment, the Administrator may "employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of [his] duty." Id. at ¶ 8.

The Administrator must serve a term of no less than four years from the date of appointment. Id. at ¶ 13. Upon an appropriate showing by either the Administrator or the government, the court may extend the Administrator's term. Id.[13]

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[12] Although the Administrator may impose sanctions on violators, only the Court may order permanent debarment or suspension from the Market for a period of more than one year. Consent Judgment ¶ 5.

[13] Either the Administrator or the government may apply for an extension of the Administrator's term upon notice to the consenting defendants, who have the opportunity to be heard on the application. Consent Judgment ¶13.

The compensation and expenses of the Administrator and any persons employed by the Administrator pursuant to the Consent Judgment are to be paid by the government.[14] See Order of Appointment attached as Exhibit 2.

Every four months, the Administrator must file a written report with the Court concerning his activities, as well as the activities of any employees engaged pursuant to the Consent Judgment. Consent Judgment ¶¶ 7, 8.

Under the terms and conditions of the Consent Judgment, the Court retains jurisdiction to "supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties." Id. at ¶ 6. The Administrator may "apply to the Court, upon notice to the parties if possible, for any assistance and relief" that the Administrator deems "necessary and appropriate for the effective discharge of [his] duties." Id. at ¶ 4(e).

C. Implementation of the Consent and Default Judgments

After entry of the Consent Judgment, both the government and the consenting defendants submitted to the Court a list of candidates for the office of Administrator. *Id.* at ¶ 12. I was appointed Administrator by the Court after review of those lists.

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[14] Every three months, the Administrator must serve the government and file with the Court an application for the payment of compensation and expenditures. If the government does not object to the application within ten days, it is obligated to pay the requested amount upon the Court's approval. See Order of Appointment.

1. Activities to Date

My remarks on our activities at the Market must be circumspect because I do not want to jeopardize the ongoing work of my office or that of other agencies. I have enclosed as Exhibits 3 and 4 the two reports that I have filed with the Court concerning my activities.

a. The office of the Administrator

I quickly concluded that the duties of the Administrator as provided in the Consent Judgment could not be performed without a staff. I therefore assembled a staff consisting of an Assistant Administrator and three staff investigators, along with necessary office support personnel. Fortunately, I was able to hire people with considerable background knowledge of the Fulton Fish Market, including two former New York City police officers who had worked on the Sea Probe investigation. My Assistant Administrator, a former Lieutenant with the joint Federal Bureau of Investigation/New York City Police Department Task Force that conducted the "Sea Probe" investigation, possesses substantial knowledge of the Fulton Fish Market and its history. Two of the three staff investigators are former New York City Police Department detectives with experience investigating organized crime matters, one of whom also worked on the Sea Probe investigation; the third is an attorney with a background in financial investigations.

This small but specialized staff is ideally suited to the tasks we have encountered, from establishing an office in the Market to conducting investigations. The staff's knowledge of the Sea Probe investigation has been extremely valuable in establishing our priorities for enforcing the Consent Judgment.

I also engaged my law firm to fulfill the necessary function of counsel to the Administrator.

All of these actions were approved by the Court.

b. Our presence in the Market

I also concluded that a physical presence in the Market would be necessary to monitor and encourage compliance with the injunctions set forth in the Consent and Default Judgments. I therefore established an office in the immediate vicinity of the Market and assigned staff investigators to observe Market activities on a routine basis, interview Market participants and investigate complaints.

The staff's presence in the Market presents a significant deterrent to conduct in violation of the Consent Judgment. For example, interviews with wholesalers and others associated with the Market indicate that "tapping," or theft of fish, has decreased markedly since the office of the Administrator was established, due in part to my staff's rapid response to theft complaints. One wholesaler reportedly stated, although perhaps with some exaggeration, "I won't pay the watchman/security service anymore...I'll let the Administrator watch my fish."

The staff's presence in the Market has also been beneficial in helping to coordinate law enforcement efforts with the needs of businesses and employees in the Market. For example, during recent labor negotiations, an agreement had not been reached prior to the strike deadline of midnight, November 30, 1988, and the Market was prepared for a strike by the journeymen. In the past, such strikes resulted in violence and stoppage of Market operations. We consulted with the New York City Police Department about the likelihood that such violence would recur, and my staff investigators were in close touch with the situation and prepared to call the police if the negotiations escalated into a violent confrontation. The police stood ready to intervene if necessary. At the deadline, however, an agreement was reached between management and union representatives. Local 359 continued to work and Market operations were not disrupted. Although the New York City Police

Department monitored this situation and responded as requested, my staff was credited with playing a key role in averting violence in the Market during those labor negotiations.

c. Collection of information

Another priority has been to open lines of communication between my office and the legitimate businesses that use the Market. Toward that end my staff and I have met with numerous representatives of those businesses. In addition, in November 1988, I wrote the approximately 1,300 wholesalers, retailers and shippers throughout the east coast who do business at or through the Market. The letter informed them of the Consent Judgment and my appointment, explained our goals, and solicited suggestions from the industry.[15] We received a positive response to these mailings and hope to continue the dialogue between my office and the industry.

We are presently gathering and analyzing all available information on organized crime activity in the Fulton Fish Market, as well as background information on the operations of the Fulton Fish Market and the seafood industry in general. Among the data being reviewed is that generated by the investigations and resulting criminal cases during the last ten years, and information gathered in the Fulton Fish Market Case.

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[15] The letter was written in both English and Korean, as the majority of seafood retailers in the New York metropolitan area are Korean.

My efforts to get information from the consenting defendants have been largely unsuccessful. In September 1988, I sent a questionnaire to the consenting defendants in order to obtain preliminary background information. Only one of the defendants answered the questionnaire. I then issued a notice of taking sworn testimony from five of the defendants who refused to respond to the questionnaire. We have been advised by counsel for these defendants, however, that our authority to obtain sworn testimony will be challenged in Court.

We have also engaged three student interns from a local New York City college to analyze urban fish markets in the United States and the rules and regulations by which they operate. We will use this information to consider proposed regulations for the Fulton Fish Market to promote compliance with the court-ordered injunctions and strengthen its operations.

2. Coordination with Other Agencies and Local Authorities

My staff and I have worked closely with several New York City and Federal agencies in establishing our office at the Market, setting priorities for enforcing the Consent Judgment and conducting various investigations.

The continuing and active involvement of the City of New York in regulating and policing the Fulton Fish Market is essential if legitimate businesses in the Market are to prosper. In part because it is confined to a restricted physical space, and in part because of the large volume of business done there, the Market requires ongoing regulatory enforcement or controls, whether in the form of local government initiatives or a private cooperative organization. Based upon the history of the Market during the last seven or so decades, it is apparent that if no control is exercised within the Market by legitimate organizations, illegitimate racketeers will quickly step in to fill that void, enforcing their control by force or threats of force and exacting secret compensation. The ongoing involvement of the City will prevent such a void from being created in the future.

In response to this need, the City is beginning to play a larger role in overseeing the Market. Mayor Koch has ordered those City agencies with responsibilities in the Market to support the Administrator's staff in fulfilling its mandate. My staff and I regularly meet with a number of these city agencies to coordinate law enforcement and regulatory efforts related to the Consent Judgment.

Mayor Koch recently appointed the New York City Department of Ports, International Trade and Commerce ("PITC") as New York City's lead agency for the Market. PITC designated a Market Manager for the Fulton Fish Market, who reports to the Assistant Commissioner of Operations for PITC, to take responsibility for addressing market operation issues, including, but not limited to, licensing of market vendors and designation of the Market as a "Market Zone." Once the City declares the area a Market Zone, PITC will draft rules and regulations specific to the Market regarding operation, traffic, transportation and parking. My office has been working very closely with the PITC in these efforts.

D. Dismissal of Remaining Fulton Fish Market Case

The government had also named the Fulton Market Employers Association and Associated Purveyors in the *Fulton Fish Market* Case, but consented to the dismissal of these defendants on July 6, 1988. The case against Local 359, its President Anthony Cirillo, and its Secretary-Treasurer Dennis Faiccio, proceeded to trial in August, 1988, three months after the entry of the Consent Judgment and my appointment as Administrator. Following trial, the Court dismissed the case against the union defendants, concluding that the government failed to prove that the union or its individual officers were presently involved with, or controlled by, the Genovese Family or engaged in a pattern of racketeering. United States v. Local 359, et al., 87 Civ. 7351, slip op. at 70-71 (S.D.N.Y. Jan. 24, 1989).

In its opinion dismissing the case against Local 359 and its officers, the Court noted that the government's failure to sustain its burden of proof did not negate the evidence of organized crime, particularly Genovese family operatives, in the Fulton Fish Market. The Court stated, "Vincent Romano is undoubtedly associated with the Genovese family and was regularly present in the Market over a period of many years ...." Id. slip op. at 70-71. The Court concluded:

> The strictures of the consent and default judgments have been imposed upon the Genovese family defendants, including a provision barring Vincent Romano from the Market. An administrator has been appointed and has been provided with an investigative staff for the purpose of enforcing these judgments. Thus, the attempt to rid the Fulton Fish Market of organized crime, which was begun with the criminal prosecutions of 1981, is continuing by means of these remedies.

Id., slip op. at 71.

III. THE ROLE OF THE ADMINISTRATOR

The President's Commission on Organized Crime stated:

> During the past twenty-five years, law enforcement agencies have often successfully used the tools available to them to prosecute individual racketeers. But as this report's discussion of law enforcement efforts against racketeering in the International Longshoreman's Association illustrates, criminal prosecutions alone are insufficient. Because of its insidious and systemic nature, labor racketeering is not easily deterred by prosecutive efforts that merely "count bodies" as a measure of success. Instead, a new strategy must be developed to bankrupt individual mobsters and to discourage union officers, employers, and public officials from accommodating organized crime.

President's Commission on Organized Crime, Report to the President and Attorney General: The Edge -- Organized Crime, Business & Labor Unions, 5 (GPO Mar. 1986). The use of civil RICO remedies, including appointment of administrators, is one such "new strategy."

Especially in a case involving allegations of traditional racketeering and claims of organized crime involvement, an Administrator must be granted broad powers to be effective. The Administrator must have the power to investigate, take sworn testimony and inspect books and records. In addition, powers to propose appropriate rules and regulations, and to impose sanctions for noncompliance with relevant court orders, strengthen the administrator's capabilities to eliminate practices conducive to racketeering activity.

Commensurate with these powers, the Administrator must be able to hire sufficient staff to be effective. Without such capabilities, the Administrator can do no more than passively wait for complaints. Yet communities dominated by organized crime are slow to complain, and with good reason: businessmen fear economic sanctions and physical injury. An administrator possessing insufficient power or resources would not be able to establish the presence necessary to convince legitimate parties that the RICO Administrator would be able to create or restore a legitimate business environment. A mere cosmetic or token administrator could actually hinder law enforcement by serving to create a possibly inaccurate appearance of legitimacy.

The Civil RICO statute, when read in light of legislative history, grants the district courts sufficient powers, I believe, to appoint administrators with the power necessary to monitor corrupt organizations. As importantly, it grants the district courts the flexibility to tailor the administrator's powers to fit the particular defendant organization. Thus far, I have not encountered any problems original

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- - - - - - - - - - - - - - - - - - -x

UNITED STATES OF AMERICA,	:	CONSENT JUDGMENT
Plaintiff,	:	87 Civ. 7361 (TPG)
v.	:	
LOCAL 359, *et al.*,	:	
Defendants.	:	

- - - - - - - - - - - - - - - - - - -x

U.S. DISTRICT COURT
FILED
APR 15 1988
S. D. OF N. Y.

This action having been commenced by the filing of the Summons and Complaint on October 15, 1987; and copies of the Summons and Complaint having been duly served upon all of the defendants who are parties to this Consent Judgment on or about October 15-20, 1987; and defendants Carmine Romano, Vincent Romano, Peter Romano, Robert La Carrubba, Thomas La Carrubba, Joseph Macario, Carmine Russo, Elia Albanese, Victor Grande, Charles Chiappone, Jerry Giammarino, Vincent Christopher, Robert Fox, Gerard Albanese, Rosario Leanzo, Gennaro Prisinzano, Giuseppe Serrantonio, Joseph Dilella, Carmine Sarnelli, Joseph Crivelli, John J. Crivelli, Louis DeMeo, John Gallo, Dominick Lategano, and Gerard Guadagno having now consented to entry of this Consent Judgment without admitting the truth or validity of any of the claims or allegations contained in the Complaint, any amended complaint, and any other papers filed or submitted by plaintiff in this action, and having waived all right to appeal from this Consent Judgment, subject to the provisions contained herein;

indicating a need for further legislation relating to the appointment of administrators.

IV. CONCLUSION

Obviously, we have our work cut out for us at the Fulton Fish Market. With the support of the Court and other local and Federal regulatory and law enforcement agencies, I believe that we can "accomplish the aim set out [in RICO] of removing the corrupting influence [in the Fulton Fish Market] and make due provisions for the right of innocent persons." H.R. Rep. No. 91-1549, 91st Cong., 2d Sess. 2, reprinted in 1970 U.S. Code Cong. & Ad. News 4007, 4034.

Frank H. Wohl

and the parties having agreed that the existence and operation, in accordance with the injunctions contained herein, of certain businesses and occupations in the Fulton Fish Market which are described in the Complaint and known as unloaders, journeymen, and loaders, is not unlawful per se,

NOW, on the motion of Rudolph W. Giuliani, United States Attorney for the Southern District of New York, attorney for plaintiff United States of America, and with the consent of defendants Carmine Romano, Vincent Romano, Peter Romano, Robert La Carrubba, Thomas La Carrubba, Joseph Macario, Carmine Russo, Elia Albanese, Victor Grande, Charles Chiappone, Jerry Giammarino, Vincent Christopher, Robert Fox, Gerard Albanese, Rosario Leanzo, Gennaro Prisinzano, Giuseppe Serrantonio, Joseph Dilella, Carmine Sarnelli, Joseph Crivelli, John J. Crivelli, Louis DeMeo, John Gallo, Dominick Lategano, and Gerard Guadagno, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. Defendants Carmine Romano and Vincent Romano are hereby permanently enjoined from participating in or having any future dealings of any nature whatsoever with any officer, agent, representative or employee of defendant Local 359, United Seafood Workers, Smoked Fish & Cannery Union, United Food and Commercial Workers International Union, AFL-CIO, CLC (hereinafter, "Local 359") or any other labor organization or trust in which a labor organization is interested about any matter which relates directly or indirectly to the affairs of Local 359 or any other

labor organization or trust in which a labor organization is interested; and from owning, operating or participating in any way in, or having any interest in, any business or entity operating in or about the Fulton Fish Market, and from having any dealings, by any means, with any officer, agent, employee or representative of any business or entity operating in or about the Fulton Fish Market about any matter which relates directly or indirectly to the affairs of such business or entity or of the Fulton Fish Market.

2. Defendants Peter Romano, Robert La Carrubba, Thomas La Carrubba, Joseph Macario, Carmine Russo, and Elia Albanese are hereby permanently enjoined from participating in or having any future dealings of any nature whatsoever with any officer, agent, representative or employee of defendant Local 359 or any other labor organization or trust in which a labor organizatio is interested about any matter which relates directly or indirectly to Local 359 or any other labor organization or trust in which a labor organization is interested, except that these defendants may employ members of Local 359; and in the event that any of these defendants currently has or hereafter acquires any financial interest in or relationship with any business in or about the Fulton Fish Market, he shall, in the case of any current interest or relationship, within seven (7) days of the date of this Consent Judgment, and in the case of any hereafter acquired interest or relationship, within seven (7) days of the date of

acquisition, inform in writing the administrator referred to in paragraph 4 below of the following: the name, address, and telephone number of the business and the nature and extent of his interest in or relationship with the business;

3. Defendants Carmine Romano, Vincent Romano, Peter Romano, Robert La Carrubba, Thomas La Carrubba, Joseph Macario, Carmine Russo, Elia Albanese, Victor Grande, Charles Chiappone, Jerry Giammarino, Vincent Christopher, Robert Fox, Gerard Albanese, Rosario Leanzo, Gennaro Prisinzano, Giuseppe Serrantonio, Joseph Dilella, Carmine Sarnelli, Joseph Crivelli, John J. Crivelli, Louis DeMeo, John Gallo, Dominick Lategano, and Gerard Guadagno, and all persons in active concert or participation with them, are hereby permanently enjoined as follows:

(a) No person, including any owner, head, or member of any seafood unloading crew in the Fulton Fish Market, shall force, require, or attempt to force or require, by any unlawful means, including but not limited to violence, theft, and the threat of violence and theft, any person, including anyone associated with any wholesale seafood business in the Fulton Fish Market or any trucking company that transports seafood to the Fulton Fish Market, to use or agree to use the services of any seafood unloading crew in the Fulton Fish Market, or to pay or agree to pay any money or other thing of value for such services when such person has not agreed to use such services or has been forced or required, by any unlawful means, including but not limited to violence, theft, and the threat of violence and theft, to use such services; provided that nothing contained in this paragraph shall prohibit any such unloading business from lawfully charging and collecting a fee for unloading services;

(b) No person, including any owner, head, or member of any seafood unloading crew in the Fulton Fish Market, shall collude, conspire, or agree with any other person, including any owner, head, or member of any other seafood unloading crew in the Fulton Fish Market, to prevent or require, by any unlawful means, including but not limited to violence, theft, and the threat of violence and theft, the use by any person, including anyone associated with any wholesale seafood business in the Fulton Fish Market or any trucking company that transports seafood to the Fulton Fish Market, of the services of any seafood unloading crew in the Fulton Fish Market; provided that nothing contained in this paragraph shall prohibit any such unloading business from lawfully charging and collecting a fee for unloading services;

(c) No person, including any owner, head, or employee of any seafood loading business in the Fulton Fish Market, shall force, require, or attempt to force or require, by any unlawful means, including but not limited to violence, theft, property damage, and the threat of violence, theft, and property damage, any person, including anyone associated with any retail seafood business who comes to the Fulton Fish Market to purchase seafood, to use or agree to use the services of any seafood loading business in the Fulton Fish Market, or to pay or agree to pay any money or other thing of value for such services when such person has not agreed to use such services or has been forced or required, by any unlawful means, including but not limited to violence, theft, property damage, and the threat of violence, theft, and property damage, to use such services; provided that nothing contained in this paragraph shall prohibit any such seafood loading business from lawfully charging and collecting a fee for loading and watchman services;

(d) No person, including any owner, head, or employee of any seafood loading business in the Fulton Fish Market, shall interfere or attempt to interfere, by any unlawful means, including but not limited to violence, theft, property damage, and the threat of violence, theft, and property damage, with the loading of seafood by any person, including anyone associated with any retail seafood business who comes to the Fulton Fish Market to purchase seafood; provided that nothing contained in this paragraph shall prohibit any such seafood loading business from lawfully charging and collecting a fee for loading and watchman services;

(e) No person, including any owner, head, or employee of any seafood loading business in the Fulton Fish Market, shall collude, conspire, or agree with any other person, including any owner, head, or employee of any other seafood loading business in the Fulton Fish Market, to prevent or require, by any unlawful means, including but not limited to violence, theft, property damage, and the threat of violence, theft, and property damage, the use by any person, including anyone associated with any retail seafood business who comes to the Fulton Fish Market to purchase seafood, of the services of any seafood loading business in the Fulton Fish Market;

(f) No person shall obtain, or attempt or conspire to obtain, any property, including money, from any other person doing business in or about the Fulton Fish Market, including any person associated with any wholesale seafood business, trucking company, or retail seafood business, through extortion, that is, with the consent of such other person induced by the unlawful use of actual or threatened force, violence, or fear, including fear of physical and economic injury;

(g) No employer whose employees are members of Local 359 or are eligible for membership in Local 359 shall make or conspire to make any payment, loan, or delivery of any money or other thing of value to any member of the Executive Board of Local 359, or any person in active concert or participation with any such Executive Board member, with intent to influence any member of the Executive Board of Local 359 with respect to the affairs of Local 359, except insofar as any such payment is authorized by the provisions of 29 U.S.C. § 186(c);

(h) No operator of any motor vehicle (as defined in 49 U.S.C. § 10102(17)) employed in the transportation of property, to wit, seafood, in interstate commerce, or employer of any such operator, shall pay or conspire to pay any money or other thing of value to any member of the Executive Board of Local 359, or any person in active concert or participation with any such Executive Board member, as a fee or charge for the unloading, or in connection with the unloading, of the cargo of any such vehicle, to wit, seafood;

(i) No person shall, with intent to convert to his own use, steal, take, or carry away, or cause to be stolen, taken, or carried away, from any truck or motor vehicle in or about the Fulton Fish Market, any goods moving as or which were a part of or constituted an interstate shipment of freight or other property, to wit, seafood;

(j) No person shall conduct, finance, manage, supervise, direct, or own all or any part of any gambling business operating, in whole or in part, in or about the Fulton Fish Market, which gambling business is illegal under the law of the State of New York, including any illegal "numbers" operation;

(k) No person shall make or conspire to make any extortionate extension of credit, as defined in 18 U.S.C. § 891(6), in or about the Fulton Fish Market or to any person doing business in or about the Fulton Fish Market; no person shall finance any such extortionate extension of credit; and no person shall participate in any way, or conspire to do so, in the use of any extortionate means, as defined in 18 U.S.C. § 891(7), to collect or attempt to collect any such extension of credit or to punish any person for the nonrepayment thereof;

(l) No person shall, for the purpose of executing any scheme or artifice to defraud or for obtaining money and other things of value through control and influence over the affairs or the Executive Board of Local 359 or to conceal this control and influence from the members of Local 359 by means of false and fraudulent pretenses, representations, or promises concerning the affairs of Local 359, transmit or cause to be transmitted by means of wire communication in interstate commerce any signs, signals, or sounds, including telephone calls;

(m) No person shall take any action to deny, directly or indirectly, any member of Local 359 the rights to free speech and democratic participation in union affairs that are guaranteed by the provisions of 29 U.S.C. § 411.

4. An administrator shall be appointed by the Court to ensure and promote compliance with the injunctions issued by the Court in paragraphs 1-3 above, and in order to discharge these duties, the administrator shall have the following powers:

(a) To monitor and encourage compliance with injunctions issued by the Court and to bring to the attention of the Court any evidence of any failure to comply with any such injunction;

(b) To investigate, whether in response to a complaint made by any person or otherwise, any acts and practices in or about the Fulton Fish Market that the administrator reasonably believes may violate any injunction issued by the Court;

(c) To take sworn testimony and to inspect the books and records of individuals, businesses, or other entities associated with the Fulton Fish Market, upon reasonable notice and in furtherance of the investigatory powers set forth above, provided that, in response to any such notice, the affected individual, business, or entity may apply to the Court for any relief available under the circumstances pursuant to the Federal

Rules of Civil Procedure, and provided further that, in order to inspect any books and records generated prior to the date of this Consent Judgment, the administrator must apply to the Court for an appropriate order;

(d) To propose upon consultation with all affected businesses and to implement upon approval of the Court appropriate rules and regulations to promote compliance with the injunctions issued by the Court, provided that, in any case where the administratc proposes such a rule or regulation, the administrator shall give notice in writing to the affected businesses of the proposed rule or regulation prior to submitting it to the Court for approval, and provided further that, for a period of up to twenty (20) days after the date of submission to the Court, the affected businesses shall have the right to oppose the adoption of the proposed rule or regulation by the Court; and

(e) To apply to the Court, upon notice to the parties if possible under the circumstances, for such assistance and relief as may be necessary and appropriate for the effective discharge of the administrator's duties.

5. In the event that the administrator determines that any of the defendants (or any person in active concert or participation with them) is in violation of any of the terms of this Consent Judgment, the administrator shall be empowered to impose appropriate sanctions upon that individual, including but not limited to public posting of the violation, fines (with any

proceeds to be deposited into the Asset Forfeiture Fund), and suspension and debarment from working and/or doing business in or about the Fulton Fish Market. In any case where the administrator imposes sanctions, the administrator shall give notice in writing to the sanctioned individual of the sanction to be imposed and the reasons for imposing the sanction. The sanction shall become effective fourteen (14) days after the date of notice to the sanctioned individual. For a period of up to twenty (20) days after the sanctioned individual receives notice of the sanction, the sanctioned individual shall have the right to seek a stay or review of the administrator's sanction by this Court. The sanctions of permanent debarment and of suspension for a period of more than one year shall not be imposed except upon order of the Court.

6. This Court shall retain jurisdiction to supervise the activities of the administrator and to entertain any future applications by the administrator or the parties. This Court shall have exclusive jurisdiction to decide any and all issues relating to the administrator's authority or conduct pursuant to this Consent Judgment.

7. The administrator shall report to the Court whenever the administrator sees fit but, in any event, shall file with the Court a written report every four months about the administrator's activities. A copy of all such written reports shall be made available to the parties for their inspection.

8. The administrator shall have the authority to employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of the administrator's duties, provided that the administrator accounts for any such actions in the periodic written reports referred to in paragraph 7 above.

9. The administrator shall have the right to designate persons of the administrator's choosing to act on the administrator's behalf in performing any of the administrator's duties. Whenever the administrator wishes to designate a person to act on the administrator's behalf, the administrator shall give prior written notice of the designation to plaintiff United States of America and the defendants who have consented to entry of this Consent Judgment, and those parties shall then have the right, within ten (10) days of receipt of notice, to seek review by this Court of the designation, which shall take effect ten (10) days after receipt of notice, unless the Court orders otherwise.

10. The administrator may make any application to the Court that the administrator deems warranted. The administrator shall give prior notice of any such application to plaintiff United States of America and, if possible under the circumstances, to the defendants who have consented to entry of this Consent Judgmen and the administrator shall serve any submissions filed with the Court in connection therewith on plaintiff United States of America and the defendants who have consented to entry of this Consent Judgment.

11. The parties hereby stipulate and agree that the administrator, and any persons duly designated to act on the administrator's behalf, shall be immune from personal liability for any conduct taken pursuant to this Consent Judgment in any action brought by any of the parties or by anyone acting on behalf of, at the behest of, or in the interest of any of the parties, and the parties hereby stipulate and agree that they will not sue the administrator, or any persons duly designated to act on the administrator's behalf, on account of any conduct taken pursuant to this Consent Judgment.

12. The Court shall appoint the administrator in consultation with plaintiff United States of America and the defendants who have consented to entry of this Consent Judgment. Within five (5) days of entry of this Consent Judgment, the plaintiff and those defendants (as a group) shall jointly, or, in the event that they cannot agree, shall each separately submit to the Court a list of at least one but no more than three proposed candidates for the office of administrator. The Court shall then appoint an administrator from among those proposed candidates. In the event the Court finds none of those proposed candidates acceptable, however, the Court shall order the parties to submit within five (5) days of the date of the order new lists of proposed candidates, following the same procedure outlined above.

13. The administrator shall remain in office for no less than four (4) years from the date of the administrator's

appointment by the Court. Upon an appropriate showing by the administrator or plaintiff United States of America, with notice to and an opportunity to be heard by the defendants who have consented to entry of this Consent Judgment, the Court may extend the term of the administrator as it sees fit.

14. In the event that a vacancy occurs and a new administrator has to be appointed, the Court shall make that appointment, again in consultation with the parties following the same procedure outlined in paragraph 12 above.

15. The parties shall each bear their own expenses, costs, and attorneys' fees in connection with this action.

16. This Consent Judgment may be executed in counterparts.

Dated: New York, New York
April 15, 1988

Thomas P. Griesa
UNITED STATES DISTRICT JUDGE

CONSENTED TO:

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Joseph Crivelli, and John J. Crivelli

By:
GARY SILVERMAN
99 Wall Street
New York, New York 10005
Tel. No.: (212) 269-3939

Gerald J McMahon
GERALD J. McMAHON
Attorney for Defendant
Jerry Giammarino
63 Wall Street
New York, New York 10005
Tel. No.: (212) 797-1877

ETF:11
5/2935/2

Deyan Brashich

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Robert Fox
80 West 40th Street
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Tel. No.: (212) 575-1778

MICHAEL V. RICCI
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Tel. No.: (718) 767-2230

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JEFFREY A. RABIN
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Tel. No.: (718) 625-2900

GOLDSTEIN, LITE & TILL
Attorneys for Defendant
Gerard Guadagno

By:____________________________
PETER W. TILL
60 Park Place
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Tel. No.: (201) 623-3000

ETF:ll
5/2935/2

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By: P. W. Till
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original

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT 2

- - - - - - - - - - - - - - - - - - - -x
UNITED STATES OF AMERICA, :
Plaintiff, :
- v. - :
LOCAL 359, et al., :
Defendants. :
- - - - - - - - - - - - - - - - - - - -x

ORDER OF APPOINTMENT

87 Civ. 7351 (TPG)

U.S. DISTRICT COURT
FILED
MAY 3 1988
S. D. OF N. Y.

The Court having duly considered the proposed candidates for the office of administrator for the Fulton Fish Market submitted by the parties pursuant to paragraph 12 of the Consent Judgment, dated April 15, 1988 (hereinafter, the "Consent Judgment"), it is hereby

ORDERED that Frank H. Wohl, Esq., of the law firm of Lankler Siffert & Wohl, is appointed the administrator for the Fulton Fish Market, effective immediately, and shall have all of the powers of the administrator set forth in the Consent Judgment, and it is further

ORDERED that, until further order of the Court, the compensation and expenses of the administrator, and of any designees of or persons employed by the administrator pursuant to the Consent Judgment, shall be paid by plaintiff United States of America (in the first instance, out of its Asset Forfeiture Fund) as follows: The administrator shall file with the Court and serve upon the Government an application for payment for services rendered and expenses, with supporting documentation, at least

EF:kmw
N-1377/2

once every three months. The Government shall have ten (10) days following receipt of the application to contest the application before the Court. If the Government does not contest the application within that period, the Government shall be obligated to pay the full amount requested in the application upon approval of that amount by the Court. If the Government does timely contest the application, the Court shall decide whether the Government shall be obligated to pay the full amount requested in the application or a lesser amount. Notwithstanding the foregoing, the Government may from time to time advance funds to the administrator against reasonable and specified expenses of the administrator, upon approval by the Court of the amount advanced.

Dated: New York, New York
May 3, 1988

Thomas P. Griesa
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT 1

----------------------------------x

UNITED STATES OF AMERICA, : 87 Civ. 7351 (TPG)

Plaintiff, :

-against- : FIRST REPORT OF ADMINISTRATOR

LOCAL 359, et al., :

Defendants. :

----------------------------------x

1. Pursuant to an Order of Appointment filed May 3, 1988, I was appointed Administrator of the Fulton Fish Market. This report is filed pursuant to paragraph 7 of the Consent Judgment filed April 15, 1988.

2. My activities as Administrator since my appointment have been devoted primarily to setting up an office from which to operate, assembling a staff and informing myself about the operation of the Fulton Fish Market, the effect the injunctions have on the operation of the Fulton Fish Market, and the issues in this case.

3. Shortly after my appointment as Administrator, I engaged the law firm of Lankler, Siffert & Wohl, of which I am a partner, to act as my counsel in this matter. The court authorized that engagement by Order filed June 14, 1988.

4. My staff is now comprised of an Assistant Administrator, three investigators and a secretary.

5. I have also established an office near the Fulton Fish Market from which my staff and I will conduct the activities of the Administrator.

6. Since my appointment, I and my staff have also reviewed a substantial amount of information concerning the Fulton Fish Market and its history. Those documents have included many of the documents and transcripts filed in this action.

7. We have also met with a number of federal and local officials for the purpose of learning the various laws and regulations now applicable to the Fulton Fish Market.

8. In addition, on September 12, 1988 I distributed a questionnaire, a copy of which is annexed hereto as Exhibit A, to the defaulting and consenting defendants. The purpose of this questionnaire is to gather information necessary for me to perform my duties as Administrator. Many of the defendants have refused to answer the questionnaire. Unless answers are forthcoming, I will shortly be bringing the matter before the Court.

9. Annexed hereto as Exhibit B is a statement of expenditures for the period May 3, 1988 through September 30, 1988.

Dated: New York, New York
October 21, 1988

Frank H. Wohl

Please return to:
Frank H. Wohl
Fulton Fish Market Administrator
Peck Slip Station, P. O. Box 2309
New York, New York 10272

Exhibit A

QUESTIONNAIRE

1. State your a) name, b) date of birth and c) social security number.

2. State your current home address and telephone number.

3. If you have ever been married, state your spouse's full name, include maiden name and any former married names.

4. Identify any union and its local of which you are or have been a member since 1981, state the date when you first became a member of such union, and identify all union positions held by you since 1981, and the time period for which you held each position.

Union & Local

Date you Became Member:

Positions Held:

Length of Time at each Position:

5. Identify the name, current address and telephone number of the companies or business entities by which you are presently employed. State all of the positions you have held in each and the length of time which you have been employed at each position.

Name:

Address of Company:

Telephone Number:

Positions You Have Held:

Length of Time at Each Position:

6. Describe fully the duties and responsibilities of your present position.

7(a). Identify all entities operating in or about the Fulton Fish Market in which you have had a financial interest during the period from January 1, 1983 to the present, and state the name of each entity, the current address, nature of the business, structure of each entity, your percentage of ownership and the dates of your involvement.

Name of Entity:

Address:

Nature of Business:

Structure: (e.g. sole proprietorship, partnership or corporation)

Your Percentage of Ownership:

Dates of Your Involvement in Each Entity:

7(b). Identify all the individuals who have been partners, officers or investors in each entity listed in part (a) of this question. State the current address of each individual, the ownership percentage in each business and whether any individual is related to you in any manner, including relationships through marriage (i.e. brother-in-law, son-in-law).

Name & Address:

Name of Entity:

Ownership Percentage:

Relatives and Their Relationship to You:

7(c). Identify the names and positions of all employees presently employed by the business(es) listed in 7(a).

8(a). Identify all other entities in which you have had a financial interest during the time period from January 1, 1983 to the present, and state the name of each entity, the current address, nature of the business, structure of each entity, your percentage of ownership and the dates of your involvement.

Name of Entity:

Address:

Nature of Business:

Structure: (e.g. sole proprietorship, partnership or corporation).

Your Percentage of Ownership:

Dates of Your Involvement in Each Entity:

8(b). Identify all the individuals who have been partners, officers or investors in each entity listed in part (a) of this question. State the current address of each individual, the ownership percentage in each business and whether any individual is related to you in any manner, including relationships through marriage (i.e. brother-in-law, son-in-law).

Name:

Address:

Name of Entity:

Ownership Percentage:

Relative and Their Relationship to You:

9. Have you or any entity in which you have a financial interest been engaged in any financial dealings with any officer, agent, representative or employee of the Local 359 of the United Seafood Workers Union, including but not limited to the following individuals, ANTHONY CIRILLO, DENNIS FAICCO, MICHAEL ESPOSITO, PERRY FIORI, RICHARD DOMINICI and WILLIAM BELL, during the period from January 1, 1985 to the present?

(a) If yes, state each officer, agent, representative or employee's position with Local 359 and describe the nature of your dealings with that person.

10. Identify any source, other than a bank or established lending institution, from which you borrowed in excess of $1,000, during the period from January 1, 1985 up to the present; and identify the name and address of the source of the loan, and the terms of each loan including the principal amount of each loan, the rate of interest and the current status of each loan.

Name & Address	Terms of Loan	Current Status of Loan

11. Identify each instance in which you loaned in excess of $1000.00 to any individual or entity during the period from January 1, 1985 to the present; and for each instance, identify the name and address of the borrower, and the terms of each loan including the principal amount of each loan, the rate of interest and the current status of each loan.

Name & Address	Terms of Loan	Current Status of Loan

12. Have you or any entity in which you have a financial interest been engaged in financial or business dealings of any type with any of the individuals named on the attached list during the period from January 1, 1985 until the present?

13. If you answered Yes with respect to any of the individuals on the attached list, describe the nature of your dealings with each.

Signed By: ____________________

Date: ____________________

List of Individuals for Question 12

Albanese, Elio
Albanese, Gerard
Chiappone, Charles
Christopher, Vincent
Contaldo, Thomas
Crivelli, John
Crivelli, Joseph
DiLella, Joseph
DeMeo, Louis
Fox, Robert
Gallo, John
Giammarino, Jerry
Gillio, Robert
Grande, Victor
Guadagno, Gerard
La Carrubba, Robert
La Carrubba, Thomas
Leanzo, Rosario
Letegano, Dominic
Macario, Joseph
Prisinzano, Gennaro
Romano, Carmine
Romano, Peter
Romano, Vincent
Russo, Carmine
Saggese, Colombo
Sarnelli, Carmine
Serrantonio, Giuseppe

Exhibit B

FULTON FISH MARKET ADMINISTRATOR
EXPENDITURES
May 3, 1988 - September 30, 1988

ACTUAL EXPENDITURES		
NON-SALARY EXPENSE		
POSTAGE:		
Postage Box Rental	$ 340	
INSURANCE:		
Equipment	302	
Disability	846	
EQUIPMENT:		
Copier	760	
Beepers	1,250	
Furniture Rental	322	
SUPPLIES:		
Forms/ID Cards/Holders	132	
TRAINING:	100	
EQUIPMENT MAINTENANCE CONTRACTS	323	
TOTAL NON-SALARY EXPENSE	$4,375	
SALARY EXPENSE		
Investigative Staff	$5,630	
TOTAL SALARY EXPENSE	$5,630	
TOTAL NON-SALARY & SALARY EXPENSE		$10,005
CAPITAL BUDGET		
Office Equipment	$4,538	
TOTAL CAPITAL BUDGET		$ 4,538
TOTAL SPENDING as of September 30, 1988		$14,543

87 CIV 7351 (TPG)

88

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

LOCAL 359, et al.,

Defendants.

FIRST REPORT OF
ADMINISTRATOR

FRANK H. WOHL, as Administrator
of the Fulton Fish Market

500 Fifth Avenue, 33rd Floor
New York, New York 10110

Service of a copy of the within
is hereby admitted.
Dated,

21 1988

COPY RECEIVED
10/21/88
UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EXHIBIT 4

----------------------------------x

UNITED STATES OF AMERICA, : 87 Civ. 7351 (TPG)
Plaintiff, :
-against- :
LOCAL 359, et al., : SECOND REPORT OF ADMINISTRATOR
Defendants. :

----------------------------------x

Frank H. Wohl, as Administrator of the Fulton Fish Market, files this Second Report of Administrator pursuant to Paragraph 7 of the Consent Judgment, filed April 15, 1988.

1. During the past four months, my staff and I have established a continuing presence in the Market to monitor compliance with the injunctions set forth in the Default and Consent Judgments. My staff occupies an office near the Market, and staff investigators are frequently present in the Market.

2. Staff investigators are currently pursuing several confidential investigations, and have responded to several complaints regarding "tapping" or fish theft. My staff and I have also reviewed a multitude of documents relevant to the history and operations of the Market.

3. During the first two weeks of December, 1988, I distributed three letters, written in English and translated into Korean, to approximately 1,500 East Coast wholesalers, retailers

and shippers of seafood. Annexed hereto as Exhibit A is a copy of each of the three letters. The purpose of the letters was to introduce the Fulton Fish Market Administrator, explain some of our goals and solicit information and suggestions from the industry. We have received several responses to the letter. My staff has also interviewed wholesalers, shippers and retailers in the Market with respect to operations and problems in the Market.

4. My staff and I have met with various New York City agencies to assist in the coordination of law enforcement and regulatory efforts related to the consent judgment. In particular, my staff has been in close communication with the New York City Department of Ports, International Trade and Commerce, which has substantial responsibility for managing and regulating the Fulton Market.

5. As part of my responsibility to propose rules and regulations concerning the Market, I have engaged three student interns from a local college for the purpose of studying urban fish markets in the United States. In the first phase of this project, the students will study rules and regulations used in various fish markets. The second phase will involve an evaluation of those rules and regulations as a foundation for considering suggested regulations for the Fulton Market. We estimate that the first phase of this project should be completed by June 1989.

6. In addition, my office has been attempting to gather from the consenting and defaulting defendants the

information requested in the questionnaires described in my first report, filed October 21, 1988. After most of the defendants initially failed to respond to the questionnaire, a follow-up letter was sent to each of the defaulting and consenting defendants in early December 1988. In that letter I explained the purpose of the questionnaire and the need for the requested information. I proposed that the defendants send me their photographs and answer those questions to which they did not object. Annexed hereto as Exhibit B are copies of my letters to the defendants. Several defendants contacted me through attorneys during December and January. This follow-up effort was impeded by the fact that two different law firms claimed to represent most of the consenting defendants. Although this confusion concerning representation appears to have been resolved, I still have received virtually no information from the consulting defendants, a circumstance which threatens to increase the cost and difficulty of my performance of my duties. If this problem is not resolved in the near future, I will formally bring this issue before the Court.

7. Annexed hereto as Exhibit C is a statement of expenditures for the period October 1, 1988 through December 31, 1988.

Dated: New York, New York
February 21, 1989

FRANK H. WOHL

Exhibit A

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212·346·3430

November 15, 1988

By order of United States District Judge Thomas P. Griesa filed May 3, 1988, I was appointed Administrator of the Fulton Fish Market to serve for a period of at least four years. As Administrator, I have been directed by the Court to monitor and encourage compliance with the Court's order prohibiting extortion, racketeering, and other unlawful activities in the Fulton Fish Market, with particular (but not exclusive) emphasis on unloading, loading and parking. I am also charged with the responsibility of investigating possible violations of the orders, issuing sanctions to violators, and proposing rules and regulations designed to promote compliance with the Court's orders.

My staff and I intend to do everything we can to make sure that the pernicious practices prohibited by the Court's order do not occur in the Fulton Fish Market, and that if they do occur, strong sanctions are imposed against any violators. At the same time I intend to use my power to propose rules to help legitimate participants in the market maintain a strong and competitive business environment. It is not my intention to propose rules or regulations without first consulting those who work, own businesses, ship to, or purchase fish in the Fulton Market.

If you have any information covering possible violations of the Court order, or concerning any possibly unlawful activities in the New York City Fulton Fish Market, I urge you to contact me. I would also be interested in your suggestions and advice regarding the operation of the Market.

You may contact my office at the above address or telephone number during the hours of 8:30 a.m. to 4:30 p.m., Monday thru Friday. Our Fax number is 212/747 9459. We will treat all information in a strictly confidential manner.

Sincerely,

Frank H. Wohl

FHW:am

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2308 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

November 15, 1988

By order of United States District Judge Thomas P. Griesa filed May 3, 1988, I was appointed Administrator of the Fulton Fish Market to serve for a period of at least four years. As Administrator, I have been directed by the Court to monitor and encourage compliance with the Court's order prohibiting extortion, racketeering, and other unlawful activities in the Fulton Fish Market, with particular (but not exclusive) emphasis on unloading, loading and parking. I am also charged with the responsibility of investigating possible violations of the orders, issuing sanctions to violators, and proposing rules and regulations designed to promote compliance with the Court's orders.

As a company that ships fish into the Fulton Market you have a vested interest in seeing to it your product is delivered on time and accounted for at the point of destination. It is important you know who is responsible for any losses you incur and who you can notify regarding these losses. My staff and I intend to do everything we can to make sure that the pernicious practices prohibited by the Court's order do not occur in the Fulton Fish Market, and that if they do occur, strong sanctions are imposed against any violators. At the same time I intend to work with businesses in the Market to propose rules to help maintain a strong business environment.

If you have any information concerning possible violations of the Court order, or concerning any possibly unlawful activities in the Market, I urge you to contact me. I would also be interested in your suggestions and advice regarding the operation of the Market.

You may contact my office at the above address or telephone number during the hours of 8:30 a.m. to 4:30 p.m., Monday thru Friday. Our Fax number is 212/747 9459. We will treat all information in a strictly confidential manner.

Sincerely,

Frank H. Wohl

FHW:am

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3480

November 15, 1988

By order of United States District Judge Thomas P. Griesa filed May 3, 1988, I was appointed Administrator of the Fulton Fish Market to serve for a period of at least four years. As Administrator, I have been directed by the Court to monitor and encourage compliance with the Court's order prohibiting extortion, racketeering, and other unlawful activities in the Fulton Fish Market, with particular (but not exclusive) emphasis on unloading, loading and parking. I am also charged with the responsibility of investigating possible violations of the orders, issuing sanctions to violators, and proposing rules and regulations designed to promote compliance with the Court's orders.

As a wholesaler you have a stake in reporting incidents of extortion, theft or other criminal activities which you are subjected to. We can, working together, help address the multiple issues facing you in the Fulton Market.

My staff and I intend to do everything we can to make sure that the pernicious practices prohibited by the Court's order do not occur in the Fulton Fish Market, and that if they do occur, strong sanctions are imposed against any violators. At the same time I intend to use my power to propose rules to help the wholesalers in the market maintain a strong and competitive business environment. It is not my intention to propose rules or regulations without first consulting those who work, own businesses or purchase fish in the Fulton Market.

In closing, if you have any information covering possible violations of the Court order, or concerning any possibly unlawful activities in the Market, I urge you to contact me. I would also be interested in your suggestions and advice regarding the operation of the Market.

You may contact my office at the above address or telephone number during the hours of 8:30 a.m. to 4:30 p.m., Monday thru Friday. Our Fax number is 212/747 9459. We will treat all information in a strictly confidential manner.

Sincerely,

Frank H. Wohl

FHW:am

Exhibit B

December 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Thomas Contaldo
2121 Shore Parkway
Apartment 3-A
Brooklyn, New York 11214

Dear Mr. Contaldo:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney.

Very truly yours,

Frank H. Wohl

FHW:am

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Ahue all
ment CM,
RRR 12/02/8

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-240-3499

December 2, 1988

Mr. Elio Albanese
216 Canal Street
New York, NY 10013

Dear Mr. Albanese:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
CC: Mathew J. Mari, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2308 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-240-3430

December 2, 1988

Mr. Gerard Albanese
90 Amber Street
Staten Island, NY 10306

Dear Mr. Albanese:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Michael V. Ricci, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212 240-3430

December 2, 1988

Mr. Charles Chiappone
21 Linda Place
Hazlet, NJ 07730

Dear Mr. Chiappone:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
CC: Gary Silverman, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212·248·3430

December 2, 1988

Mr. Vincent Christopher
32 Monroe Street
New York, NY 10002

Dear Mr. Christopher:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Mathew J. Mari, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2308 • PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. John J. Crivelli
41 Green Mountain Drive
Freehold, NJ 07728

Dear Mr. Crivelli:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
CC: Gary Silverman, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-240-3430

December 2, 1988

Mr. Joseph Crivelli
15 Masler Lane
Little Silver, NJ 07739

Dear Mr. Crivelli:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Gary Silverman, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Louis Demeo
299 Pearl Street
New York, NY 10038

Dear Mr. Demeo:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
CC: Mathew J. Mari, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 • PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Robert Fox
86 Galloway Street
Staten Island, NY 10303

Dear Mr. Fox:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Deyan R. Brashich, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 - PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. John Gallo
222 Sacket Street
Brooklyn, NY 11231

Dear Mr. Gallo:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: George G. Coffins, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Jerry Giammarino
140 Bay 47th Street
Brooklyn, NY 11214

Dear Mr. Giammarino:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Gerald J. McMahon, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Victor Grande
R.D. #2
The Concourse
Oyster Bay, NY 11771

Dear Mr. Grande:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Frank A. Doddato, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212 248 3430

December 2, 1988

Mr. Gerard Guadagno
2163 59th Street
Brooklyn, NY 11204

Dear Mr. Guadagno:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
CC: Peter W. Till, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Robert La Carrubba
90 Bedell Street
N. Lindenhurst, NY 11757

Dear Mr. La Carrubba:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: George G. Coffins, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212 248 3430

December 2, 1988

Mr. Thomas La Carrubba
22 Third Street
Ronkonkoma, NY 11779

Dear Mr. La Carrubba:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: George G. Coffins, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212 248 3430

December 2, 1988

Mr. Dominic Lategano
2250 First Avenue
New York, NY 10029

Dear Mr. Lategano:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Jeffrey A. Robin, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Gennaro Prinsinzano
54-12 Arnold Avenue
Maspeth, NY 11378

Dear Mr. Prinsinzano:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Jeffrey A. Rabin, Esq.

ADMINISTRATOR
FULTON FISH MARKET

P.O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Carmine Romano
20 Swanson Drive
South Dartmouth, MA 02748

Dear Mr. Romano:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Judd Burstein, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Vincent Romano
43-70 Kissena Boulevard
Apt. 26-C
Flushing, NY 11355

Dear Mr. Romano:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

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Very truly yours,

Frank H. Wohl

FHW:am
cc: Ronald M. Kleinberg, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 • PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Carmine Russo
20 Mulberry Street
New York, NY 10013

Dear Mr. Russo:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Michael G. Berger, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248-3430

December 2, 1988

Mr. Carmine Sarnelli
306 Avenue Z
Brooklyn, NY 11223

Dear Mr. Sarnelli:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

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Very truly yours,

Frank H. Wohl

FHW:am
cc: Gary Silverman, Esq.

ADMINISTRATOR
FULTON FISH MARKET
P. O. BOX 2309 · PECK SLIP STATION
NEW YORK, NEW YORK 10272

FRANK H. WOHL
ADMINISTRATOR

212-248 3430

December 2, 1988

Mr. Giuseppe Serrantonio
1169 73rd Street
Brooklyn, NY 11228

Dear Mr. Serrantonio:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney. A copy of this letter is being sent to your attorney of record as indicated on the consent judgment.

Very truly yours,

Frank H. Wohl

FHW:am
cc: Gary Silverman, Esq.

December 19, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Colombo Saggese
77 Fulton Street
Apt. 27-C
New York, New York 10038

Dear Mr. Saggese:

Some time ago I sent you a questionnaire seeking information about your activities in the Fulton Fish Market. I requested that the completed questionnaire and a photograph of you be sent to me within two weeks of receipt. To date I have not received your questionnaire and photograph, nor have you contacted my office.

It is essential that I have basic information necessary for the effective discharge of my duties as Administrator of the Fulton Fish Market. The questionnaire appears to me to be the most efficient and least expensive way of gathering that information. Accordingly, I again request that you complete the questionnaire and return it to me with the requested photograph. If you are unwilling to answer some questions, or if you have difficulty understanding part of the questionnaire, I request that you complete the part of the questionnaire calling for information you are willing to provide. I will then decide whether answers to the other questions are necessary. A complete refusal to respond to the questionnaire may constitute a violation of the consent judgment to which you are a party and may subject you to sanctions or punishment for contempt of court.

You may contact me directly or through an attorney.

Very truly yours,

Frank H. Wohl

FHW:am

ANK H. WOHL, ADMINISTRATO
FULTON FISH MARKET
REPORT OF OPERATING EXPENDITURES*
AUGUST 22, 1988 - DECEMBER 31, 1988

Exhibit C

	PERIOD ENDED 9/30/88	MONTH ENDED 10/31/88	MONTH ENDED 11/30/88	MONTH ENDED 12/31/88	YEAR TO DATE
Telecommunications		358	3,152	612	4,122
Postage	340	100		69	509
Insurance	1,148	732		732	2,612
Equipment Leases	970	501	725	1,103	3,299
Supplies	132	3,306	4,193	2,890	10,521
Services		223		2,496	2,719
Professional Fees		933	2,255	7,659	10,847
Training	100	25	100		225
Rent		6,817	6,817	6,817	20,451
Rent Tax				818	818
Equipment Maintenance	323				323
Confidential Expenditures		1,940		1,750	3,690
Auto Expense				10	10
Travel and Incidentals		19	527	146	692
Professional Organizations		80			80
Salaries	5,629	17,826	24,095	27,731	75,281
Payroll Expense		2,178	1,809	2,037	6,024
Capital Items	5,898	(52)		117	5,963
	14,540**	34,986	43,673	54,987	148,186

*These figures do not include Administrator's fees and counsel fees which are the subject of separate submissions to the Court seeking approval of such payments.

**Due to variances in rounding off figures, there is a three dollar difference between the total expenditure reported on this statement for the period ending 9/30/88, and the total expenditure for the same period which was reported on the expenditure statement attached to the Administrator's First Report.

Please take notice that the within
copy of a
entered in the office of the clerk of the within
d court on 19

d,

Yours, etc.,

rney for

Office and Post Office Address

orney(s) for

NOTICE OF SETTLEMENT

—Please take notice that an order

which the within is a true copy will be presented
settlement to the Hon.

e of the judges of the within named Court, at

19

M.

ated,

Yours, etc.,

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To

Attorney(s) for

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

-against-

LOCAL 359 et al.

Defendants.

SECOND REPORT OF
ADMINISTRATOR

FRANK H. WOHL, as Administrator
of the Fulton Fish Market

Attorney for

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To

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Service of a copy of the within

ADMINISTRATOR
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FRANK H. WOHL
ADMINISTRATOR

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May 12, 1989

UNITED STATES SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Additional Questions for the Hearing Record
of the Testimony of Brian M. Carroll,
Assistant Administrator for the
Fulton Fish Market

1. On April 4, 1989, the General President and the General Counsel of the International Brotherhood of Teamsters testified here, vigorously opposing the imposition of any RICO trusteeship on a labor union. They argued that RICO trusteeships "contravene established doctrines of Federal labor law and union democracy." Do you agree?

ANSWER: Since the Fulton Fish Market is a commercial center, the Administrator's situation is different from that of a labor union trustee. In any event, it is my opinion that RICO trusteeships are appropriate remedies in civil RICO cases, and that such trusteeships or administratorships can be successful without contravening any doctrines of labor law or union democracy.

2. The General President and General Counsel of the Teamsters also stated that

> A trustee, whose role is that of a 'cop,' cannot obtain the loyalty and support of the rank-and-file membership. Indeed, as the experience with Local 560 makes clear, a RICO trustee is likely to become a symbol of oppression and the rallying point for a counterforce.

Do you agree?

ANSWER: Because the Fulton Fish Market Administrator does not monitor a union local, I cannot comment on interaction between the trustee and the rank and file membership.

3. What has been the single biggest problem or frustration you have experienced in your role as Assistant Administrator?

ANSWER: As a result of the need to establish necessary relationships and to analyze all available data on the Market and its participants, our first few months of operation could not be spent on affirmative measures in the Market.

The appointment of an Administrator over an entire commercial center, such as the Fulton Fish Market, is a new application of civil RICO remedies. Accordingly, it was necessary not only to establish relationships with the various federal, state and local agencies with responsibilities in the Market, many of whom had no previous involvement with the court appointed administrators, but also to educate ourselves on general Market operations and prior investigations of the Market by reviewing all the available data concerning the Fulton Market.

Our staff's prior relationships with many of the agencies involved in the Market, and their roles in previous Market investigations, assisted in establishing the Administrator's authority, explaining our function, and analyzing data on the Market, its operations and participants.

4. You were appointed by a court as a result of a civil RICO suit brought by the Government. Do you believe that you have been successful in achieving the goals of the Government suit? For example, on a scale of 1 to 10, how effective do you think your administratorship has been in eliminating corruption and organized crime influence?

ANSWER: The Consent Judgment, providing for the appointment of the Administrator, requires him to serve a term of at least four years. Since we have been operational for less than one-fourth of that tenure, we cannot at this time assess our success in achieving all of the goals of the Government's suit.

Clearly, our presence in the Market serves as a deterrent to conduct in violation of the Consent Judgment. For example, interviews with wholesalers and others associated with the Market indicate that the incidence of "tapping" (fish theft), has decreased markedly due, in part, to our rapid response to theft complaints. Our presence in the Market has also assisted the coordination of law enforcement efforts with the needs of business and employees in the Market, as demonstrated by our work with the New York City Police Department during the labor negotiations with Local 359 in November 1988.

In addition, the Administrator's presence in the Market has encouraged the City of New York to take a larger role in overseeing the Market. Mayor Koch has ordered those City agencies with responsibilities in the Market to support the Administrator's staff in fulfilling its mandate. The Administrator's office has met with various New York City agencies in the coordination of law enforcement and regulatory efforts related to the Consent Judgment.

In particular, the Administrator's office has been in close communications with the New York City Department of Ports, International Trade and Commerce ("PITC"), New York City's lead agency with authority in the Fulton Fish Market. Subsequent to the Administrator's appointment, PITC designated a Market Manager who is responsible for addressing Market operation issues. An agenda has been developed to deal with such issues as licensing of Market vendors and the designation of the Fulton Fish Market as a "Market Zone." Once the Fulton Fish Market is declared a Market Zone, PITC will draft rules and regulations regarding operation, traffic, transportation and parking. All of these efforts will help the Market run more smoothly and efficiently.

Based upon the history of the Market during the last seven decades, it is apparent that if legitimate organizations exert no control within the Market, illegitimate racketeers quickly fill that void, enforcing their control by force, threats of force and extortion. Ongoing involvement by the City of New York will prevent such a void from being created. In this sense, I believe we have taken substantial steps toward achieving the Government's goals.

5. Were you given sufficient power and authority to reach that goal? If not, what was lacking?

__ANSWER__: The ultimate goal of this Office is to eradicate the influence and illegal business practices of organized crime in the Fulton Fish Market. This will strengthen and promote the growth of legitimate businesses in the Market.

The Consent Judgment authorizes the Administrator to conduct investigations of acts and practices which may be in violation of the court ordered injunctions. In furtherance of his investigatory authority, the Administrator is empowered to take sworn testimony, inspect books and records of any individual or entity associated with the Fulton Market, establish rules and regulations to promote compliance with the injunctions issued by the Court and impose sanctions on those individuals who violate the injunctions contained in the Consent Judgment. These broad powers are essential for the effective discharge of the Administrator's duties and should be sufficient for achieving our goals.

If need be, however, the Consent Judgment allows the Administrator to seek additional powers from the Court as necessary. Paragraphs 4(e) and 10 of the Consent Judgment grant the Administrator the power to make application to the Court "for such assistance and relief as may be necessary and appropriate to the effective discharge of the Administrator's duties," Consent Judgment ¶ 4(c), or "as the Administrator deems warranted," Consent Judgment ¶ 10. Paragraph 6 of the Consent Judgment provides that the Court shall retain exclusive jurisdiction "to entertain any future applications by the Administrator or the parties," and to "decide any and all issues relating to the Consent Judgment.

6. Of all the authority given to you by the Court, what power was the most important to you, as a practical matter?

ANSWER: The investigatory and enforcement powers granted to the Administrator by the Consent Judgment go hand in hand and are vital to the effective discharge of the Administrator's duties.

Paragraph 4(b) of the Consent Judgment empowers the Administrator to "investigate, whether in response to a complaint made by any person or otherwise, any acts or practices in or about the Fulton Fish Market that the Administrator reasonably believes may violate any injunction issued by the Court." The authority to conduct independent investigations, as well as investigate complaints or other information received by the office, is essential to monitor and ensure compliance with the Court ordered injunctions.

However, without adequate means to enforce his powers the Administrator would be rendered ineffective. Paragraph 5 of the Consent Judgment grants the Administrator the power to impose appropriate sanctions on any person in violation of any term of the Consent Judgment. Such sanctions include, but are not limited to, public posting of the violation, fines and debarment from working or doing business in or about the Market.

7. Have you seen any evidence of continued corruption or organized crime influence after your appointment by the Court?

ANSWER: The influence and presence of organized crime in the Fulton Market is certain. The individuals named in both the Consent and Default Judgments were alleged to be members or associates of the Genovese crime family (LCN). We are conducting confidential investigations related to their continued influence in the Fulton Market. At this time I cannot comment on the results of those investigations.

On April 5, 1989 nine alleged members and associates of the Bonanno Organized Crime Family (LCN) were arrested in the Fulton Market and charged with racketeering and loansharking. Following the arrests, the United States Attorney's office for the Southern District of New York filed two separate criminal complaints in the District Court.

In the first complaint, nine defendants were charged with racketeering, including attempted murder, wire fraud and loansharking. Two of these defendants are alleged to be "made" members of the Bonanno Crime Family and one is an alleged "capo." The remaining defendants are described as associates of the Bonanno Family. The complaint charges that the defendants engaged in widespread extortionate credit transactions centered in the Fulton Fish Market.

In a separate complaint, one defendant is charged with using and trafficking in counterfeit credit cards.

8. Did your presence have any detrimental effect on the Union's ability to negotiate contracts? Did any of these contracts result in a diminution in benefits to the rank-and-file members? If so, what was the reason for this loss in benefits and/or wages?

ANSWER: This question is not applicable to the Administrator for the Fulton Fish Market, however, the appointment of the Administrator has not had a negative affect on the Local 359.

9. What effect, if any, has your appointment had on sales at the Fulton Fish Market?

ANSWER: Because the figures regarding the volume of the seafood passing through the Fulton Fish Market vary from source to source, it is extremely difficult, if not impossible, to comment on whether the Administrator's appointment has effected sales at the market.

Communications between the Administrator's office and the seafood industry in general have indicated that in the past, seafood suppliers from various parts of the United States have suffered losses when shipping their product through the Fulton Market due to theft. Such losses have made suppliers reluctant to do business in the Fulton Fish Market.

We hope to restore confidence in the integrity of the Fulton Market. One step toward this end has been our effort to reduce the theft of product being shipped into the

Market. In addition, the Market Manager, appointed by the New York City Department of Ports, International Trade and Commerce, is in the process of developing a program to create a voluntary registry of the wholesalers doing business in the Market. The registry would provide information such as the length of time that a particular wholesaler has been doing business in the Market. Suppliers would be able to call the Market Manager's Office and inquire whether a particular wholesaler is registered, before he ships his product.

10. To what extent have you been able to carry out investigations of alleged improprieties? Have you been satisfied with the results of those investigations? Would they have benefitted by increased support from the FBI and other law enforcement agencies?

ANSWER: The nature and extent of our investigations must remain confidential. The Federal Bureau of Investigation and the New York City Policy Department have and continue to be important resources for us in the course of our investigations. Thus far, we have been satisfied with the results of our efforts.

11. Since your appointment, have you or your staff been threatened or intimidated in any way regarding your responsibilities in this position?

ANSWER: There have been no threats to our staff to date.

12. Could your trusteeship have used assistance from the Federal Government's regulatory branch? If so, explain.

ANSWER: Thus far we have received assistance from federal agencies such as the Department of Labor and the

Department of Commerce's National Marine and Fisheries Service which have provided us with general background information and historical data concerning the Fulton Market. We may be contacting those agencies for more active assistance in the future.

The FBI is an important resource for us. It has provided us with historical information on the Fulton Fish Market, thereby saving our staff substantial time in gathering the necessary background information to begin our operations. In addition, the FBI has been available to us for advice on confidential issues.

In my opinion, we can use the government's help in informing us as to which Federal agencies have authority or expertise in the area of our appointment. This would provide a general introduction for the Administrator and establish his authority in the particular area of his appointment, thereby facilitating the exchange of information between the Administrator and these agencies.

13. To what extent do you interact with the Department of Labor? Have you been satisfied with their cooperation?

ANSWER: We have not had extensive interaction with the Department of Labor. The Department of Labor has, however, assisted the Administrator's office by providing historical information on the Fulton Fish Market.

14. Currently, most RICO trusteeships are funded by the entity that is placed in trusteeship. Some trusteeships

could not be adequately supported by the affected entity, due to a lack of financial resources. If the Government provided an alternative form of funding for trusteeships, would that in itself remedy many of the problems now being experienced by your trusteeship?

ANSWER: The Administrator for the Fulton Fish Market is unusual in the sense that it is not funded by the Market itself, but by the Federal Government. Pursuant to the Order of Appointment, dated May 3, 1988, which was annexed to Frank Wohl's written statement, the Administrator's compensation and expenses are paid by the United States Government.

Every three months, the Administrator must file with the Court an application for the payment of compensation and expenditures. If the government does not object to the application within ten days, it is obligated to pay the requested amount upon the court's approval. The Order of Appointment also provides that if the government fails to object within the ten days, the Court shall decide whether the Government shall be obligated to pay the full amount requested or a lesser amount. To date, the government has not objected to any application, nor has the Court reduced the amount of any such application.

In my opinion, our job would be much more difficult if we had to appeal for funds to any entity other than the Government and the Court. Since the Fulton Fish Market is not a single entity, but a commercial center comprised of various businesses, there is no single spokesperson or committee to whom we could appeal for funding. Moreover, the legitimate businesses in the Market should not be assessed for expenses caused by alleged racketeers, and it would be difficult to determine which entities would be responsible for funding the Administrator.

Because the Administrator's office is charged with monitoring an entire commercial center, we must carefully analyze the potential impact of his actions on each facet of the Market. Such analysis might require the advice of various experts. The fact that we are funded by the Government allows us the flexibility to engage the expert advice we deem necessary.

15. How have you been received by the businesses operating in the Fulton Fish Market?

ANSWER: To date, some wholesalers have expressed their skepticism that the Administrator will improve the business climate in the Market, although some individuals associated with the Market have requested our assistance. We have received, and continue to receive complaints, anonymous or otherwise, about certain practices and problems in the Market. We try to address those complaints as rapidly as possible through investigations or by referring the problem to the appropriate New York City agency.

It is clear, however, that the consenting defendants are wary of the Administrator's potential impact. For example, defendants have refused to provide the Administrator with information regarding their involvement in the Market. Their refusal to do so presently before the Court.

16. Has your trusteeship had any effect on the way the affected industry conducts its business? Or is the trusteeship unable to exert an effect on the industry as a whole?

ANSWER: As previously stated, our presence in the Market has deterred violations of the injunctions. Moreover, the Administrator does have the power, under Paragraph 4(d) of the Consent Judgment, to propose rules and regulations in the Market to promote compliance with the Court-ordered injunctions. Once our study of the rules and regulations of various markets throughout the United States is completed and we have obtained more information about the actual business operations in the Market, the Administrator plans to draft such rules and regulations.

17. What specific recommendations do you have as to the use of the civil provisions of RICO, the creation of trusteeships, and the relationship between a trusteeship and the Government?

ANSWER: The federal courts have extremely broad powers to fashion remedies under civil RICO. In my opinion, Congress should not in any way limit the Court's discretion in this area.

18. What pro-active measures are you instituting to ensure that organized crime is kept out of the Fulton Fish Market?

ANSWER: We are engaged in pro-active measures, but due to the confidentiality of these programs we cannot comment on them.

19. Although you are authorized to require sworn testimony, you mentioned that, to date, your requests for such testimony have been refused. Could you tell us who has refused to provide that testimony? Has this been brought to the Court's attention? If so, what has been the response? Have any court proceedings been filed to challenge your authority to require this testimony?

ANSWER: In March 1989, we noticed the taking of sworn testimony of six of the defendants. This matter is presently before the Court, accordingly it would be inappropriate to identify the six individuals. Counsel for those defendants advised us that he would not produce his clients. The issue was not resolved at a conference before the Judge, and counsel for the defendants stated he would move to quash our process. He failed to do so, however, so on April 25, 1989, counsel for the Administrator served the defendants with a motion to compel the taking of testimony. All papers were submitted to the Court on May 4, 1989.

20. For what reasons did you seek to obtain that testimony?

ANSWER: We sought to take testimony to obtain information relevant to several of the studies presently being conducted by the Office, and certain background information necessary to monitor compliance with the Consent Judgment. For instance, information concerning actual business practices prevalent in the Market is within the exclusive knowledge of the defendants. Such information is relevant to investigations concerning the legitimacy of those practices.

21. Can you adequately investigate alleged improprieties in this Market without that authority?

ANSWER: In my opinion, the authority to take sworn testimony is an extremely valuable tool to ensure compliance of the injunctions set forth in the consent judgment. It has become apparent that information regarding specific business practices in the Fulton Market is within the exclusive knowledge of the defendants. The only way to obtain this information is by the taking of sworn testimony.

22. Under the Court's order, you are authorized to impose sanctions -- have you had occasion to do so? If so, what sanctions were imposed, and for what activity?

ANSWER: At this time, we have not imposed any sanctions.

23. How many investigations of alleged criminal or improper activity have you initiated since being appointed?

ANSWER: Due to the confidential nature of investigations, it would be inappropriate for me to comment.

STATEMENT OF
ARTHUR EISENBERG
TRUSTEE, TEAMSTERS LOCAL 814
BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARINGS ON
FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS
UNDER THE RICO STATUTE

Background and Current Status in the Industry

Four members of the long-time Executive Board of Local 814, together with members of the Bonanno crime family, were convicted in October, 1986, of various labor racketeering crimes. (The Rastelli case, CR 85-00354, Sifton, J.) That Executive Board appointed a replacement Executive Board, who in turn, among other entities, were thereafter the subject of a civil RICO suit, [CV-87-2974 (ILG)]. That Complaint charged that Local 814 was a captive labor organization which the Bonanno family enterprise has dominated through fear and intimidation and has exploited through fraud and corruption. That suit resulted in a Consent Judgment approved on October 8, 1987, by District Judge I. Leo Glasser of the Eastern District of New York. The settlement required the new Executive Board to resign their positions and brought me in as a court-appointed trustee to oversee the operations of the Union and its Benefit Funds.

Local 814 has been a chartered affiliate Union of the International Teamsters for more than 60 years. It represents truck drivers, helpers, warehousemen, and some clericals employed primarily by moving and storage companies, appliance and furniture deliverers. It also bargains for similar type employees at sports and exhibition facilities, miscellaneous trucking firms, fine arts movers, auction galleries, certain racetrack employees, as well as employees at various commercial, manufacturing, and other employers primarily in the New York Metropolitan Area. Membership as well as the number of employers under contract have fallen considerably in the last 10-15 years due to a number of reasons. These include the proliferation of many small operations with one or two vans, the rapid growth of several large non-union competitors, and competition from firms having substandard contracts with other Unions all of which have contributed to a steady erosion of Local 814's prior share of the household moving market. This has led to an increasing concentration of Local 814's signatory employers' work in the commercial end -- namely office moves, new furniture installation, and record storage.

Today, only a few Local 814 signatory firms cater to the higher economic level households and number of so-called "B" firms, also Local 814 barns but with lower rates, compete strenuously for household moving work. It is estimated that 50% to 65% of the approximately 3,000 employees listed on Employer Contribution Reports for the most recent three-month period work in the Moving and Storage Industry. The rest are split among the types of employers earlier noted, with the next largest groups in Furniture and Appliance Deliveries and Miscellaneous Trucking. Those members fully paid up in their dues currently total about 2450. Approximately 140 firms are under contract with Local 814.

Benefit Fund Assets under active management have grown to about $58,000,000 in the Pension Fund and $24,000,000 in the Annuity Fund. The Welfare Fund has gone from a deficit position of two years ago to a net cash position as of the end of February, 1989, of $571,000. Payment of benefits for the fiscal year ending June 30, 1988, from the Welfare Fund was $4,500,600; from the Pension Fund -- $4,883,022, and from the Annuity Fund -- $3,760,442 with total benefit payments running at about the same rate in this fiscal year. There are about 1060 retired members drawing monthly pension.

The Union's financial condition improved over the year 1988 compared to 1987. Deducting accounts payable from current assets left a balance of $123,972 for 1988, compared to $13,202 for 1987.

Carrying Out The Consent Judgment, My Role As Trustee

My various duties and responsibilities as well as the role of the Interim Executive Board and the other Trustees are set forth in the Consent Judgment of which you have been provided copies. Rather than detail them again here, I believe it would be more significant to discuss the focus of my day-to-day activities and thoughts about the accomplishments of the Trusteeship and what remains to be done.

The over-riding purpose of establishing the Trusteeship was to create a climate in the Union which would permit the conduct of a free election, assuming conditions warranted it, within a year, for a new Executive Board. The various programs were designed to encourage greater democratization within the organization and participation by members in the affairs of the Union. Likewise, I was charged with the elimination of corrupt conduct by an employee of the Union, the Funds, or Executive Board, which could result in the adjournment of the election and removal of the offending individual.

In view of what I perceived as low staff morale, inexperience in some areas, and the problems faced by the Union in maintaining its work jurisdiction and position in the industry, I centered my attention early in my term on helping the Union to survive as a viable organization. This meant giving priority to and participating fully in the day-to-day activities and meetings of the Interim Executive Board, the Interim Board of Trustees, and making myself available to assist them in any manner consistent with the Consent Judgment. We meet frequently to review problems as they are brought to our attention in contract administration, grievance determinations, improving communication between officers, agents, and the staff, and organizing efforts. Time permitting, I sit in on contract negotiations, all meetings of the Joint Labor Management Board which considers unresolved grievances, and also attend shop steward meetings, meetings of the newly created membership council, general membership meetings, special meetings, education and training classes, all Benefit Fund Trustee meetings, and meetings of the Teamsters Joint Council #16 and Management Hospitalization Trust Fund. I do this, as well as in my reports in the revived Union newsletter, to get out the message of my presence at the Union and Benefit Funds, and my availability to all concerned. I believe this has had positive results in encouraging members to attend meetings, to speak their mind, whether or not it is to criticize me and/or the concept of a Trusteeship, and to help spread the work that it is their Union, so here is your opportunity to become involved.

An outside accounting firm was engaged early on to audit Local 814's certified financial statements for the three-year period ending December 31, 1987. They also reviewed the Benefit Fund's certified financial statements for the three years ending June 30, 1987, as well as a report on the certified financial statement of the Funds for the six-month period ending December 31, 1987. Their review, including how various benefit claims were processed, did not disclose any misappropriation of funds or inappropriate expenditures as compared to normal expenditures.

They made a number of comments on and recommendations as to the way certain disclosure statements should be headed and the kind of additional explanatory notes that should be included in the regular accountants' reports to conform with FASB guidelines. These were reviewed by the Union's Executive Board and the Board of Trustees of the Funds and will be included in future financial statements.

After considering the results of having an outside accounting firm reaudit several employers' contribution reports, the Fund Trustees decided to replace the Funds' internal auditors with a professional audit firm. This has already resulted in uncovering substantial shortages in Employer fund contributions and should also improve public perception of the total independence of the outside auditors.

Efforts to secure collection of unpaid employer contributions has been examined on an ongoing basis by the Trustees. Written procedures have been reviewed and updated. Several major collections of delinquencies in 1988 brought in more than $450,000 and reduced the amount of debt outstanding. While more attention and follow-up has been given to this area, Court procedures are inherently time consuming, and bankruptcies cannot always be overcome.

New investment managers have been engaged at a saving of $267,000 in yearly fees, and it is expected that their performance will exceed that of the prior managers. Also hired was a firm that will review the new manager's performance on a quarterly basis compared to a Universe of other Taft-Hartley Fund Managers. This, too, will assist the Fund Trustees in carrying out their fiduciary duties to secure maximum returns consistent with prudent investment policies.

The Membership Council meets monthly and acts as advisory body to the Executive Board on matters of collective bargaining. Two of the members serve on the wage scale committee during the current contract negotiations with the Employer Associations representing the Moving and Storage Industry. They also helped spread the word back to the membership on the kinds of help available through Teamsters Center Services, especially peer counseling in the substance abuse area and encouraging attendance at education classes. I believe that this body is performing useful services and should be retained after the trusteeship terminates.

With regard to the Union's job referral system, a full-time dispatcher was hired about six months ago in order to apply uniformly the existing practices on entering and assigning work opportunities. Certain prior abusive practices such as out of Union hall referrals through "social" clubs for a fee no longer exist. The Union's present telephone dispatch system is, in my view, a realistic response to the unpredictable and consequently uneven daily work requirements in this industry. I believe certain aspects can still be improved such as changing call in times for those seeking additional night and weekend work, and that additional field checks of weekend jobs be made to ensure compliance with contractual requirements.

Much time was invested in establishing education an training programs for the membership and their families. The International Teamsters Education department was very helpful in my efforts to arrange shop steward training classes. I received cooperation and assistance from Teamsters Local 237 in trying to establish classes to improve reading, writing, and math skills, the high school diploma program (General Equivalency Diploma), as well as getting into a college credit program. General labor education classes were developed with Cornell's University Metropolitan District Labor Program, including several shop steward training classes. Programs leading the G.E.D. and skills training were also prepared with LaGuardia Community College as well as a coming "Opportunity Advancement Night." While I feel the training offered was important, well presented, and timely to the need, in general, attendance ranged from about half of the expected turnout to very sparse. Overall, I believe far too few members are motivated to voluntarily improve their skills for various reasons to involved to discuss in a summary report. Continuing programs have been scheduled, and I hope that members' interest will develop further. Certainly, this subject has been mentioned at length in every issue of the Union newsletter, and at every meeting of stewards, membership council, and general meetings, but the results have not been commensurate with the efforts expended by myself and others, on these programs.

I believe it simply takes time for the message to get through and as one commentator noted, a year is a pitifully short period to change deep-seated attitudes. It's part of the lack of wanting to get involved common to all levels of society. I find it frustrating that so few members, relatively speaking, find it worth their while to particepate in important Union affairs as attending meetings, assist in picketing campaigns, and upgrading their skills. Of course, this attitude is not unexpected when a long of threatened force and fear has existed which deters members from exercising their rights guaranteed by law, but it's disappointing nonetheless.

After many years of nonpublication, the 814 Newsletter was re-started with major assistance of the office manager. I think it has been a positive influence in improving communication between the newly appointed officers, agents, staff, and the members and should not only be continued but given even greater priority in the next administration.

You have been advised of new and renewal contract negotiations. In my opinion, the members' interests have been well served, especially considering the state of the economy generally and the situation in the unionized segment of the Moving and Storage Industry specifically. Contract negotiations with the major employers in the industry have just been concluded and a favorable contract reached subject to membership ratification.

Turning to the contested Union election which was the main reason behind the establishment of the trusteeship, it was conducted by mail ballot. You are aware that the ballots were counted on February 8, 1989, and resulted in a split between the two slates. The winner of the Third Trustee position was selected by lot as the two candidates received an equal number of votes. A "protest" (objections) was thereafter filed by the incumbent slate which is under investigation by the Department of Labor.

I feel positive about the day-to-day guidance, consultation, advice, and follow-up that I provide the Union and the Funds which I believe has been helpful. My ongoing review of contact negotiations and the results obtained, involvement in grievance processing, Joint Labor Management Board meetings, contract administration, review of hiring hall operation, benefit funds, contribution collections, organizing and picketing activities, review of bills and checks, development of education and training programs, newsletter preparation, frequent consultation with the Fund Manager on a variety of matters including the progress of a planned computerized claim-processing program have given me a better understanding and appreciation of the actual operations of a Union and its related benefit funds. I also believe that the publicity and emphasis given to the substance abuse problem, AIDS, and "wellness" program have been of value to the membership. While some of the education and training programs have not gotten too far off the ground in terms of attendance, a start has been made and additional classes have been scheduled. There are more quorums now, so more membership meetings are being held and from what I am told, more discussion and floor debate goes on now than in the past, so this, too, I consider a very worthwhile result of the Trusteeship. The hiring of additional agent staff means that response time to work site complaints has been shortened, and the members' interests better served.

Imposition of a trusteeship at Local 814, in my view, has not diminished in any way the level of wage improvements and other benefits which would have been obtained without my presence here. Certainly, grievance processing through arbitration has not suffered that I am aware because of the trusteeship. I also believe that trying to create conditions which will restore Union democracy and motivate members to take control of their own Union is the end goal of any trusteeship. My constant message to the members, stated differently each time but to the same effect, is that the price of liberty is eternal vigilance -- that means everything I do is for their benefit and all the programs have but one purpose -- to create a climate where a free and fair election was to be held -- a climate in which all members feel free to aspire to leadership positions and thereby to control and operate their own Union.

I feel that a move in the right direction has been made and that the future officers of the Union, several of whom also serve as Benefit Fund Trustees, should continue to enlarge the programs established by the trusteeship. My overall conclusion is that the Union and benefit funds have come out of a very difficult period in much better shape, in terms of financial strength, motivation, training, and staff experience. Installation of a trusteeship, in my opinion, was not only required by preceding events but serve to coalesce and give needed direction to both the Union and the Benefit Funds.

As far as suggestions for modification of RICO legislation are concerned, I generally concur in the perceptive recommendations expressed by Assistant U.S. Attorney Peter R. Ginsberg in a memorandum previously sent you. I do feel that presumably innocent members should not be forced to pay costs of the trusteeship. In the case of Local 814, had they paid off all outstanding liabilities when I was appointed, they would have been left with funds insufficient to pay for one half-month's normal disbursements, so I favor financial assistance by the Government where warranted. I have had the benefit of assistance from the

Department of Labor, including the Solicitor's Office, meetings with other law enforcement agencies, discussions with NLRB officials, information from various labor law practitioners, individuals interested in labor union reform movements, frequent meetings and discussions with Union and Fund Counsel and other service providers and assistance with training, education, and information generally from the organizations previously mentioned in those areas. I might also add that without the full assistance and cooperation received from the entire Union and fund staff, I could not have accomplished whatever changes and improvements I was able to achieve.

With respect to the oft-raised issue of the use of RICO to impose trusteeships in a democratic society and its purportedly repressive effects on democratic trade unions, I believe phrasing the issue that way merely begs the question. The fact is that but for the demonstrated pervasive criminal influence and control of certain labor unions and the inability and/or lack of interest of those organizations and the AFL-CIO to rid themselves of those elements, RICO is required as an end choice tool to reverse the continuing criminalization of what was and should again be the bastion of democracy -- the free trade union movement. While the philosophical and legal debates are interesting, from a pragmatic point of view, I believe you must have a strong Government presence on site, to install programs which encourage democratization, member involvement, and protection of member rights within the Union and on the job. Also needed is vigorous prosecution if corruption is uncovered and the establishment of procedures and checks to guard against future illegal conduct. With sufficient investment of experience personnel, time, funds, and Governmental commitment to make it work, I believe RICO trusteeships can help carry out the public policy commitment to rid labor organizations of criminal infiltration and control.

Merely removing convicted mobsters does not eliminate long-standing climate of fear and intimidation. Dissidents are still effectively deterred from speaking out freely and from acting singly or in concert to protest abuses and lack of proper representation of members by their elected/appointed officials and agents. Long-standing corruption has not been redressed.

In my view, only a trusteeship at this point will provide the kind of built-in oversight to ensure that Union officers will act base don accepted trade union principles and consider paramount their Union members' interests. Under the monitoring of a trusteeship, likewise, members can exercise their right of free speech and see that someone is there to protect that right. Trusteeships also help ensure members' choice of democratic participation in Union affairs, including the right to receive facts necessary to make informed judgments on contractual matters, Union election choices, and participate meaningfully in Union affairs of whatever description. Union officers' decisions are thereby fully exposed to the crucible of members' opinions as well as Government Trustees' review. Grievance representation, collective bargaining negotiations, contract enforcement, benefit fund administration and all the other activities of Union officers and agents and fund trustees cannot but improve in these circumstances.

In summary, I believe RICO is a reasonable approach to what has thus far been an intractable problem -- how to eliminate the deep-lying control of organized crime in labor unions and how to restore the democratic process to make it more difficult for such elements to work their way back in the future.

STATEMENT OF

ROBERT E. WELSH, JR.
CHIEF COURT LIAISON OFFICER
ROOFERS LOCAL 30/30B
PHILADELPHIA, PENNSYLVANIA

BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

HEARINGS ON
FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS
UNDER THE RICO STATUTE

I. INTRODUCTION

A. Introduction

This memorandum is submitted in response to a request by the Subcommittee for information concerning the decreeship established by The Honorable Louis C. Bechtle of the United States District Court for the Eastern District of Pennsylvania in the civil action captioned United States v. Local 30/30B et al., Civil Action No. 87-7718. That Decree, entered under the RICO statute, was entered on May 23, 1988, and established a comprehensive set of controls and conditions for the operation of Local 30/30B of the Roofers Union and its affiliated entities, including its affiliated pension plans and health and welfare plans. The decreeship has been in operation since May 23, 1988, and will continue until further order of Court.

B. The Union Entity

Roofers Local 30/30B is an affiliate of the International Roofers Union (an affiliate of the AFL-CIO) and is a labor organization representing approximately 2,000 persons employed in Eastern Pennsylvania, New Jersey, and Delaware in the roofing and allied trades. Members are employed in installing and repairing commercial, residential, and industrial roofs and in waterproofing structure, floors, and waste disposal facilities. [NOTE: The commercial and industrial roofing is performed by Local 30 members, while residential roofing is performed by Local 30B members. Local 30 and 30B have separate contracts with employers. While there is but a single Union -- Local 30/30B -- there are separate contracts and pension and benefit plans for each side.]

II. DISCUSSION OF THE DECREESHIP

A. The Pattern of Racketeering

The essence of the relief entered by Judge Bechtle is that he crafted what he labeled a "decreeship." Under the decreeship, the structure of the Union and its elected leadership remain in place. The responsibility for operating the Union in compliance with the law and the Court's orders remains on the rank and file and the elected leaders. This is a heavy responsibility. In essence, the Court has employed the existing structure of the Union and the elected leadership to achieve the goals of the decreeship.

I cannot comment on the propriety of this form of relief in other contexts, but its usefulness in this case flows from the nature of the pattern of racketeering found by the Court.

Here, the Court found a pattern consisting primarily of the use of violence, threats, intimidation, and bribery on the Union's part to assert its interests and maintain internal discipline. These means included beatings, vandalism, improper economic threats, as well as the use of cash bribes to influence the courts, law enforcement, and administrative agencies.

The use of unlawful means took place in two general areas: first, the Union's relations with contractors, vendors, and the outside world in general; second, the Union's internal democratic process in which violence and economic threats were used to eliminate dissent and consolidate power in the hands of the leadership.

B. The Response

The Court's response was to create a comprehensive set of administrative controls over the Union's affairs, regulating financial matters, hiring, firing, investments, and overall operations. Although the Union has the responsibility for its own operations, it must seek the approval of the Court or the Chief Court Liaison Officer on virtually all financial matters.

The Court imposed additional specific remedies. First, the Court directed that the 13 Union officers who were convicted in a related criminal RICO case be removed from Union positions and employment by the Union or employment in the roofing industry. This step should begin to reduce the influence of those convicted of misuse of Union power.

Second, the Court ordered a thorough financial review by the firm of Peat Marwick Main & Co. This review was completed in December, 1980, and resulted in the filing of a comprehensive report, which included recommendations to enhancing financial accountability and efficiency. The Peat Marwick report disclosed that the Union was conducted with virtually no financial accountability and that Union officers were vested with unlimited and undefined discretion to grant financial concessions to members and contractors. In response, Peat Marwick promulgated a set of internal corrective measures and recommended the engagement of new outside auditors to promote accountability. In keeping with the placement of responsibility on the Union, since the filing of the report, the Union itself has made substantial progress towards implementing the recommendations, an outside auditor has been engaged, written standards for the exercise of discretion have been established, and various technical accounting and data processing problems have been corrected. Any other recommendations to which the Union objects will be considered by the Court at a later time.

Third, all collective bargaining activity is required to take place under my supervision. I physically supervise the actual negotiations, and all contracts are void unless I certify to the Court that the negotiations were conducted in an atmosphere free of unlawful influence. Industry-wide negotiations are under way, and there have been several apparently lawful work stoppages. The lack of violence and intimidation in this setting is encouraging.

Fourth, the Court has ordered an election to be held in June, 1989. There is plainly an anti-democratic tradition and culture in the Union. The dissidents within the Union have been the subject of harassment and intimidation, and there is no sign of reduction in the levels of overreaching. An election plan developed jointly with the United States Department of Labor has been filed, calling for a mail ballot election in June. This election will be a test, in many ways, of the progress made thus far.

III. EVALUATION

Substantial progress has been made in the Union's relations with the outside world, most particularly in collective bargaining. As to internal democracy and accountability, there is reason for concern. Any dissidents are viewed as traitors, and the exercise of political rights is not without cost. Although I cannot predict how long the process will take, the Court's carefully crafted relief, which will evolve over time, and the assistance of outside agencies and entities, such as the Department of Labor and Peat Marwick, will be of great assistance.

If this is successful, however, it will be because the hundreds of Union members and leaders decided to make it succeed, and worked hard to achieve that end. The members have treated me with courtesy and respect at all times and take great pride in their Union. If this decreeship is successful, their pride, hard work, and determination to bring the Union into compliance with the law and mainstream of the labor movement will make it succeed.

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RECEIVED BY
SENATE PERMANENT
SUBCOMM. ON INVESTIGATIONS
SEP 07 1989
MAJORITY OFFICE

September 5, 1989

Eleanore J. Hill
Chief Counsel, Permanent
Subcommittee on Investigations
United States Senate
Committee on Governmental Affairs
Washington, DC 20510-6250

Re: RICO Trusteeships

Dear Ms. Hill:

I am writing to respond to the questions which were provided to me as follow-ups to my appearance before the Committee on April 6, 1989. For ease of understanding, I have repeated the questions substantially verbatim.

Q. Of all of the authority given to you by the Court, what power was the most important to you, as a practical matter?

A. The most important authority provided to me was granted in what the Court has labeled Decree Implementation Order No. 11, which provides that all checks must be provided to me, all financial undertakings (such as leases, contracts, loans, and other financial items) must be approved by me, and that all hirings and increases in any form of compensation must be approved by me.

Q. Have you seen any evidence of continued corruption or organized crime influence after your appointment by the Court?

A. I am aware of no evidence of continued organized crime influence in this case. I should note that traditional LCN influence in this Union was a factor, but it was not the principal problem in the Union's operation.

Q. Have rank-and-file Union members received any benefits, either tangible or intangible, as a result of your trusteeship? If so, explain.

A. I believe there has been at least an element of democracy created, as we witnessed in the election which was this held this June. The election appeared to be fair and democratic, at least to the extent that people were able to guess their vote in an atmosphere free of intimidation. Other benefits will be forthcoming in the future, hopefully, as an atmosphere of democracy is advanced.

Q. Did your presence have any detrimental effect on the Union's ability to negotiate contracts? Did any of these contracts result in a diminution in benefits to the rank-and-file members? If so, what was the reason for this loss in benefits and/or wages?

A. The decreeship has resulted in a significant change in the way contracts are negotiated: All collective bargaining must take part in my presence and any agreement are void unless I countersign them, thereby certifying to the Court that they were entered into without fear or intimidation. There has thus been one significant change in bargaining position and that is that Roofers Union has been unable to rely upon violence and threats of violence in its collective bargaining. There is no question but that this added increased bargaining power to the Union historically and that the power had an effect. However, I am confident that even though this power has been eliminated, it has had no effect on the Union. Most recently, on the commercial side of the Union, a record wage increase was bargained for after three years of virtually flat or insignificant wage increases. I must take care at all stages of the negotiations to ensure that the contractors do not view the Union as being encumbered in the lawful means by which it may assert its rights and to make clear that picket lines, strikes, and any other lawful means of asserting its rights and interests are well within the Union's power and prerogative, to the extent provided by law.

Q. To what extent have you been able to carry out investigations of alleged improprieties? Have you been satisfied with the results of those investigations? Would they have benefitted by increased support from the FBI and other law enforcement agencies?

A. I have been provided with the authority, when I ask for it, to conduct depositions into alleged improprieties. In addition, I have plenary authority to demand and insist upon the production of documents from the Union and the entities in question. This power has been very significant. I an completely satisfied with my ability to conduct negotiations and with the support provided by the FBI and the Department of Labor.

The most important assistance is provided to me by the Office of the Inspector General of the Department of Labor which has routinely assisted in conducting investigations, serving deposition subpoenas, and assisting in the day-to-day information related to alleged violations of the Court's decree. The FBI has played a subsidiary role in the creation and operation of the decreeship, although court-authorized FBI wiretaps played a significant role in the civil RICO case.

The Department of Labor, Office of Labor Racketeering ("OLR") conducted a long-term criminal investigation of leaders of the Roofers Union, in conjunction with the Pennsylvania Attorney General's Office, resulting in the indictment of 14 current and former officers. Much of this evidence formed the basis for the civil RICO case. The evidence gathered by OLR was indeed critical to the civil RICO case because it demonstrated the routine use of violence and intimidation in the operation of the Union and included evidence of financial violations in the affairs of the Union.

OLR has continued to be involved on a regular basis supporting the operation of the decreeship. Whenever there is an allegation of a criminal violation of the Court's orders, OLR conducts an investigation upon my informal request and reports on any results.

The FBI has, to a lesser extent, also been involved in investigations of violations. It's principal role has been to provide access to a substantial body of background and intelligence data.

I am, in summary, satisfied with the quality of the investigative support that I have been given and with the determination on the parts of OLR, the FBI and the United States Attorney to follow through on the initial efforts and to see the decreeship through to its fruition.

Q. Since the appointment, have you or your staff been threatened or intimidated in any way regarding your responsibilities in this position?

A. No.

Q. Could your trusteeship have used assistance from the Federal Government's regulatory branch? If so, explain.

A. The decreeship has benefitted from substantial assistance from regulatory agencies. For example, the Union recently conducted its first apparently free and fair election and the election plan was developed and implemented with the full participation of the Department of Labor.

At present, in focusing upon the hiring hall of the Union, the National Labor Relations Board has been providing expertise and assistance. On the whole, I have had nothing but enthusiastic support from the federal regulatory agencies.

Q. To what extent do you interact with the Department of Labor? Have you been satisfied with their cooperation?

A. The Department of Labor is the most significant federal agency assisting me in the operation of the decreeship. The Department of Labor provides substantial investigative resources upon allegations of any wrongful conduct in the affairs of the Union and have a good working relationship. The Department of Labor, Office of Labor Management Services (OLMS) promulgated a comprehensive and creative election plan and supervised its execution. The election was, at least based upon evidence that is available, fairly conducted and did reflect the choice of the electorate.

The Department of Labor, Pension and Welfare Benefit Administration has been asked to review a financial report on the plans prepared by the accounting firm of Peat Marwick Main & Company. No results have been reported of this date, but that office will be contacted in the near future as I am about to undertake a formal review of the Peat Marwick report and its recommendations. In addition, the Department of Labor promulgated the election plan resulting in the first free and fair election in many years. I am very satisfied with the Department of Labor's participation and must congratulate them on it.

Q. In the case of a labor Union, can a trustee balance the dual role of investigator and Union official, without adversely affecting the rank-and-file members?

A. This matter depends on who is being investigated and the structure of the trusteeship. First, I am not a union official, but rather am the Court's representative and designee. Thus, I do not operate as a union official. If there is an investigation of all union leadership, a conflict can result. It is a delicate balancing act which must be achieved, and it is one that does have inherent conflicts. Nonetheless, I do not see how it can be avoided.

Q. Currently, most RICO trusteeships are funded by the entity that is placed in trusteeship. Some trusteeships could not be adequately supported by the affected entity, due to a lack of financial resources. If the Government provided an alternative form of funding for trusteeships, would that in itself remedy many of the problems now being experienced by your trusteeship?

A. The precise facts would have to be known. This is not the situation with Local 30/30B.

Q. What methods or programs have you used to educate the rank and file as to the trusteeship, their rights, their pensions, regulations, etc? Were these programs effective?

A. We have provided mailings to the membership of various events, including the Court's orders, their rights and other matters. I feel we can make greater efforts in this area.

Q. How has your trusteeship been received by the International Union or industry? Have you received adequate assistance from them?

A. The industry has been very helpful, although I might point out that the contractors have largely attempted to use me as a shield (and sometimes a stick) with which to beat the union. This I cannot permit. The International Roofers Union has been somewhat responsive in particular situations, but largely seems to wish to stay somewhat distant.

Q. How have you been received by the rank-and-file members of the Local Union?

A. With the exception of what I might call a core of somewhat disgruntled Roofers, I have been cordially received by virtually all rank-and-file members. This union is union known for its fierce independence and pride, and its ability to persevere in the face of adversity. I believe that there is something good to be said for such an attitude and I hope that perseverance and patience in the face of what they believe is the adversity in the operation of their union will carry them forward.

Q. Do you believe that the Government, when it is considering filing a civil RICO suit against an entity, adequately researches the type of relief necessary to rehabilitate that entity? If not, do you have any suggestions as to what preparatory steps or process the Government should consider when crafting the requested relief to the court?

A. Obviously, this study and analysis must be done on a case by case basis and no blanket answer may be given.

Q. In your opinion are the courts being consistent in the way they grant relief in civil RICO cases? It is my understanding that in the Local 560 case, a Federal judge at one point barred Michael Sciarra and Joseph Sheridan from running for Union office, but later allowed them to be appointed as business agents after viewing the same evidence which had justified barring them from running in the Local 560 election. Do you agree with the rationale in that decision? What effect did that opinion have on the morale of the rank-and-file members?

A. This can be answered on a case by case basis. I can render no opinion on the 560 situation without a full record of all the facts underlying the decisions.

Q. Has your trusteeship had any effect on the way the affected industry conducts its business? Or is the trusteeship unable to expert an effect on the industry as a whole?

A. To a very great extent the decreeship has substantially altered the operation of the industry, particularly as to collective bargaining. In addition, we are now undertaking a review of the hiring hall and the promulgation of a plan to change its operations. Very clearly, in a construction trade in Philadelphia, the industry and the Union are very closely related.

Q. What specific recommendations do you have as to the use of the civil provisions of RICO, the creation of trusteeships, and the relationship between a trusteeship and the Government?

A. I believe the course the Local 30/30B situation has taken on this question is a proper one for this case. Once again, a case by case analysis must be undertaken before any blanket answers could be given to such question.

Q. I understand you have been appointed as a "Chief Liaison Officer" in a "decreeship" imposed directly by the court in Local 30/30B in Philadelphia. Could you explain how that differs from the RICO "trusteeship," as used in the cases of Locals 560 and 814?

A. In this case, the Court carefully reviewed the details of the pattern of racketeering and the operation of the Union and crafted a form of relief which it called a "decreeship" tailored specifically to face and confront those facts. Here, the Court chose to permit the elected officers and employees to continue to run the Union, placing responsibility on them for its lawful operation. I become, in essence, a partner in the process, representing the Court in the operation of the Union. However, at all times, the responsibility for the lawful operation of the Union, and its efficient representation of the interest of its members, is placed upon those chosen by the rank-and-file to run the Union. This placement of responsibility is the touchstone of the decreeship and it precludes any roofer from washing his hands of the matter of the running of the Union on the belief that the Court is running the Union.

We have found that we have worked the Union officers and employees very hard, that great demands are placed upon them not only from the rank-and-file, the industry but also from the Court. That is a responsibility that they have undertaken willingly.

Q. Could you please explain what a decreeship is, as opposed to a trusteeship? Does a decreeship give greater autonomy to the elected Union officials? What are the benefits and/or liabilities of this form of receivership?

A. As is noted in my response to the preceding question, the decreeship places responsibility at all times for the running of the Union upon roofers elected by the rank-and-file. The degree of autonomy given to Union officials varies tremendously. I would say that here, the Union officials have complete autonomy in the first instance in the operation of the Union, but must present me with the results or course of action that they have chosen for my approval. I stress to them and stress to the committee that they have the full range of rights, responsibilities, legal remedies and authorities provided to them under law and that I cannot and will not permit them to claim that they were encumbered in the lawful assertion of their rights or interests. However, it is after they negotiate a contract, sign a check, or propose to hire someone that the matter is presented to me. To a very great extent, unless there is some clear overriding reason which, after consultation with the court, should preclude or preempt their decision, I respect their choice decisions.

Once again, the responsibility for running the Union is placed upon them and I will not permit them to claim that they would have negotiated a better contract or could have run more efficiently if the Court and I were not involved.

Q. Are those who currently hold Union office in Local 30/30B associates of Stephen Traitz, the former president of Local 30/30B who was convicted in the Government's criminal RICO case? If so, does this hinder your efforts to restore democracy to Local 30/30B?

A. The Court found as a matter of fact that the present leadership has substantial ties to the Traitz leadership. The present leadership has, however, most recently been elected by a 2 to 1 margin in what appears to be a fully free and fair election.

I have significant concerns that Traitz may be continuing to assert influence, but have no specific evidence that this is occurring. While I might have preferred that we have an entirely new set of officers, the only way this decreeship will operate is if the rank-and-file's choices are placed in office and permitted to run the Union. Accordingly, since these are the persons chosen by the rank-and-file, this is the best way that the decreeship may operate.

Q. It is my understanding that your decreeship is currently experiencing a dispute with the Local 30/30B officials over the election process. Could you explain the dispute and what effect it is having on your efforts to democratize the Local?

A. This question is somewhat mooted by the passage of time. A mail ballot election was had in June of this contrary to the Union's position that an in person election was required. The mail ballot was very well organized and was run by the Department of Labor and the American Arbitration Association. At all times, the parties appeared to act in compliance with the law and the spirit of democracy. I have had substantial input from a number of other union officials and have had almost universal support for the notion of a mail ballot. I should note that, while I was testifying on April 6, I learned from the other trustees that they, as well, opted for a mail ballot.

Accordingly, the Court's decision to conduct the election by mail was a very significant one and I believe the election was a very significant step towards achievement of democracy.

Q. According to testimony in the criminal and civil RICO trials, Local 30/30B has had a long history of violence and intimidation. Are the threats and violence continuing? What steps have you taken to give the Union back to the rank-and-file members?

A. The Union had resorted to the use of violence and intimidation, including economic violence and harm, on an almost reflexive basis for many years. Disputes over the simplest and routine work rule matters would be met with the infliction of serious and disabling injuries. In fact, I believe that the Union had developed such a tradition that many of its officials did not know how unions are to assert their interests. Here, I believe we have made substantial progress towards developing a pattern of the use of normal and lawful means for asserting the Union's interests, such as picket lines, lawsuits, arbitrations and grievances, and other routine labor law procedures. I view this to be in large extent a matter of developing a culture, tradition, and base of knowledge. It is very helpful that the

Union is advised by competent labor counsel who I believe provides the Union with accurate advice as to what is lawful and what is not. I am reasonably confident that no overt threats and intimidation are occurring as to the manner in which the Union relates to the outside world (primarily contractors and suppliers). On the other hand, many contractors believe that there is at least an under current of intimidation based upon the mere fact that their bargaining opponent is the Roofers Union. It will take many years to change the perception that Roofers will always be violent and I encourage contractors to provide me with information as to any threats or intimidations. These have become increasingly rare and I think we are indeed developing a pattern.

On the other hand, I believe we have made very little progress towards the Union's use of threats and intimidation to achieve and maintain order within its ranks and this is a matter of grave concern to the Court and me.

Sincerely,

Robert E. Welsh, Jr.

REW/rr

Testimony of Lane Kirkland, President, American Federation of Labor and Congress of Industrial Organizations before the Senate Permanent Subcommittee on Investigations

April 12, 1989

Mr. Chairman, I am pleased to appear before this Subcommittee to present the views of the AFL-CIO on the issues raised by government trusteeships over labor organizations.

This is a subject that tends to generate more heat than light. I therefore think it would be helpful at the outset to reemphasize a fundamental point on which there is no dispute.

That is, the trade union movement cannot reach its potential or meet its obligations to its members and to society without the protection afforded by vigorous enforcement of the law against wrongdoing trade union officers, appointees and employees.

The evidence of human imperfection is all around us; this is not an entirely virtuous world. As much as I may wish the opposite to be true, the fact is that trade unions, like every other type of organization, have been misused by individuals who are corrupt and by others who are weak and succumb to temptation.

In this country, there are more than 50,000 labor organizations trying to make their way in a complex, competitive, and often harshly anti-union atmosphere. For some, the real world means contending with venal employers, corrupt public officials, and elements of organized crime, all of whom were on the scene before the union. The wonder is not that some labor organizations become tainted, but rather how few are brought down by these circumstances.

It is equally plain that in this context, as in others, any wrongdoing that occurs is not perpetrated openly and is not freely and voluntarily admitted. Almost without exception, illegalities must be uncovered and documented by trained investigators armed with the full range of police power, most particularly the authority to compel testimony, to use sophisticated surveillance techniques, and to make other searches and seizures.

Without this power there is simply no reliable means of determining whether suspicions are well-founded or are unfounded and, of equal importance, of determining whether individuals who appear to be honest and straightforward are, in fact, what they appear to be.

There is an understandable tendency of private groups to claim that their own self-policing is sufficient. We ourselves were of that view through the 1950's. Based on our experience since, we now recognize -- albeit with reluctance -- that the Government must be entrusted with the primary police role.

These are the inescapable realities that justify the authority we as citizens grant the government to make and enforce the criminal law. And these realities, Mr. Chairman, are what led the AFL-CIO to support your initiative to assure that trade unionists who fail their trust are, in addition to the other penalties provided by the criminal law, debarred from union office on conviction.

In so doing, however, we insisted that not even these realities can be allowed to obscure the plain fact that the government's law enforcement powers can imperil, as well as secure, ordered liberty. Unfettered government power is as much a threat to a free society as lawless force. The protections of due process are, thus, as essential today as at any time in our history. The Government has, and must respect, its obligation to state the legal norms beforehand in reasonably clear terms, to prove an allegation that those norms have been violated through probative evidence recognized in the courts of law and to do so by proof beyond a reasonable doubt.

From our perspective, then, it is right and proper to grant the government broad police powers only if that grant is balanced by the safeguards of the rule of law.

The sum of the matter is this: our legal tradition proceeds from the fundamental premise that individuals are responsible for their own actions. Thus, when an individual is proven to have committed a wrong, then it is the individual who is to be punished. Within that tradition, the labor movement has stood for full enforcement of the law, for a full measure of due process, and for full punishment of wrongdoing trade unionists. We do not merely suffer such vigorous and measured law enforcement, we demand it.

The common ground I have just mapped ends with the Government's claim that not even the criminal law is sufficient to assure that private organizations are not corrupted by organized crime and that the civil law power to take over and administer such organizations is necessary.

So far as I am concerned, granting the Government that power is wrong as a matter of principle. Government-dominated trade unions -- no matter what the excuse -- are contrary to every precept of freedom of association. That freedom's office is to permit the members of each of the diverse private groups in our society to join together to further their beliefs and interests insofar as those beliefs and interests diverge from the Government's and from those of other private groups.

In the modern world, these private groups are essential to maintaining a vital democracy, and to assuring that individuals who would otherwise be powerless have some measure of control over their lives. Government control of a private association is thus fundamentally illegitimate in that the officials who exercise that control are not drawn from, are not selected by, and are not responsible to the association's members.

Given the importance of freedom of association, it would, at the very least, take an extraordinarily compelling showing of absolute need to justify the deviation from our fundamental principles entailed in granting the Government this dangerous supervisory authority. No such showing has been made.

The basic case for RICO trusteeships, as I understand it, is that assuming the worst -- iron control of a union by a corrupt and ruthless leadership that has maintained its sway over many years by brutal force -- Government control is required to counter the effects of that criminal conduct and to restore membership rights.

It takes a suspension of disbelief to envision many such situations.

As a result of criminal cases recently brought in New York and elsewhere, federal and state prosecutors have said repeatedly that the organized crime groups which seek to infiltrate honest trade unions are in more serious disarray today than ever before.

In addition, over the 30 years since the Landrum-Griffin Act was passed, the Government's authority to detect and prosecute criminal wrongdoing by union officers has been repeatedly strengthened. Surely, no group files more reports and is subjected to more audits and investigations than the labor movement. There has been no stinting in the resources made available to implement this authority. Nor can anyone seriously argue that trade unions hold any influence over the law enforcement process.

The Government, in other words, has never been better equipped to gather the facts, to bring the necessary prosecutions, to secure convictions, and to remove the individuals who are convicted from any role in the union.

The logic of the situation is that the cumulative force of these increased powers will be felt over time so long as the Government is doing its law enforcement job. Thus, arguments in favor of more government power in this area, especially those based on the situation 20 years ago or even 10 years ago rather than from the current situation, are inherently suspect.

So that I am not misunderstood, I hasten to add that I do not blink at the threat posed by organized crime, nor do I claim that either freedom of association or due process go so far as to mean that the prosecutorial power cannot be supplemented by appropriate civil law powers.

The worst case situation I have hypothesized may well, for example, call for an active government role in overseeing the process by which the membership chooses new leaders to replace those who have been properly debarred. After all, the Landrum-Griffin Act grants such an authority on far lesser grounds. It may be appropriate as well in that situation to authorize the Government to secure injunctive relief against individuals who can be shown to have been involved in the prior wrongdoing, but who for some reason are not subject to prosecution. Additionally, I would not categorically rule out authorizing strict government scrutiny of the union's expenditures to assure that its funds do not flow to the deposed leadership, to their associates, or to organized crime figures.

There is every reason to believe that options like these -- and I do not pretend to have exhausted the possibilities -- would provide a significant break with the past and would work to promote the free exercise of democratic rights. At the same time, these options respect due process concerns by requiring the government to prove a criminal case as the precondition to removing a union officer from his position. And they respect freedom of association concerns by denying the government the power to deprive those who have not been proved guilty of wrongdoing of the right to play an active lawful role in their association.

These limitations on government power are a small price to pay for preservation of basic liberties. That would be true even if government trusteeships provided greater benefits than the evidence suggests.

The testimony of the panel of trustees who appeared before the Subcommittee last week recognizes that the substantial monetary costs of such trusteeships -- which are borne by the union and its members -- constitute a serious drain on the organization's treasury. The social benefit of that kind of pyrrhic victory escapes me.

The trustees also noted that, not surprisingly, they have been treated as outsiders by the membership and have not engendered the members' trust.

That testimony is striking, too, in confirming one truth and dispelling one myth.

The truth is that in today's circumstances, running a good trade union is hard work and that trade unionists do that work about as well as it can be done. These handpicked -- and, so far as I can tell, able and serious -- trustees do not claim any breakthrough in advancing the membership's interests vis-a-vis employers, in administering the union or in uncovering significant corruption beyond that uncovered by the prosecutors. Moreover, despite the fact that these are the very worst cases, the picture that emerges as to how these locals have operated is a far more mixed and complicated one than the government's publicity might have us expect.

In this regard, I recommend Trustee Eisenberg's testimony to you. His careful and complete account shows that through all its travails, Local 814 negotiated and enforced collective bargaining agreements providing better terms and conditions than unorganized employees received, and maintained its pension and welfare funds inviolate. Trustee Eisenberg notes that many of the problems facing the local stem as much from the conditions facing all unions -- principally, the efforts of employers to operate non-union, and the difficulty of organizing small employers -- as from corrupt leadership. Quite sensibly, Trustee Eisenberg makes no pretense of having found any means of coping with these conditions better than those that have been evolved by trade unionists.

Simply stated, government trustees are not platonic guardians and their installation in office provides a most modest return for a large investment.

To this point, I have indulged the assumption that the RICO statute -- which is the source of the government's trusteeship power -- carefully limits intrusions into union governance to truly malignant situations that, by any measure, call for extraordinary correctives. But that is only an assumption. Recent events suggest that unless reason prevails or Congress acts to clarify the law in this area, that assumption will turn out to be contrary to fact.

In the first RICO union trusteeship case -- the Local 560 case -- the Government claimed, and the courts agreed, that the facts of record demonstrated the domination of the local by a group of violent men, virtually all of whom had already been convicted of serious criminal offenses relating to their union office. At the time, the Department of Justice gave assurances that trusteeships would be limited to such situations.

Less than five years later, however, the Government sought to impose a trusteeship on the International Brotherhood of Teamsters on highly attenuated legal theories -- admittedly not backed up by evidence comparable to that in the Local 560 case -- and to oust all of its elected officers, including those with no criminal record. In so doing, the Government confirmed the worst fears of those who doubted whether the prosecutorial zeal of the Justice Department would be tempered by an appreciation for the role of private institutions in our society and the need to preserve their independence.

The Government was able, over five years, to move to its present extreme position because RICO grants an authority that is almost wholly without confining standards. Indeed, the word "trusteeship" is mentioned nowhere in RICO and, more generally, the law is, in theory at least, directed at those who seek to criminally infiltrate an organization rather than at the organization itself. The Government is, in effect, writing whatever it wants on an empty slate.

To bring some balance and order to this dangerously unconfined area, the statement submitted last week to this Subcommittee by IBT President William J. McCarthy makes three suggestions for changing the civil RICO statute. First, that RICO be amended to preclude the "wholesale removal of a union's elected officers and their replacement, for an indefinite period, by a court appointed trustee." Second, "that the law be made clear that such a trusteeship, in any form, not be imposed unless and until there has been a full and final evidentiary hearing and the government has demonstrated, by clear and convincing evidence, that the interests of union members cannot be protected by any less intrusive means." And third, "that RICO be clarified so that no union is precluded from using its resources to hire legal counsel to defend itself or its officers."

The AFL-CIO strongly endorses these moderate and sensible suggestions, and we commend each one to your attention. Indeed, as I interpret the testimony of United States Attorney Benito Romano in response to this Subcommittee's questions last Tuesday, he came remarkably close to conceding the appropriateness of the third proposal regarding attorneys' fees.

In addition, I wish to elaborate on the second of President McCarthy's suggestions. Even if, contrary to my belief, there is some justification for some RICO trusteeships over trade unions, that extraordinary relief should, I submit, be confined to the extraordinary situations in which the Government can demonstrate at trial a clear and present danger of ongoing violations of the criminal law, despite successful criminal prosecutions that have denied those convicted a role in the organization's affairs.

The stated purpose of RICO is to impose severe sanctions on persons who have themselves engaged in a pattern of criminal misconduct. Nonetheless, in the absence of the kind of clarification I have just suggested, the Government has been free to seek the ouster of union officials, and their replacement by government trustees, on the basis of loosely-related instances of misconduct -- many of ancient vintage -- by persons other than the officers sought to be removed.

This concept of collective institutional guilt is fundamentally contrary to the most elementary principles of justice. It is also unworkable. If applied consistently, it would have justified placing under trusteeship the City of New York in the days of Tammany Hall, the State of Louisiana in the days of Huey Long, the entire federal executive in the days of Warren Harding, and the entire Department of Justice in the days just prior to Watergate.

Newspaper accounts of the insider trading scandals, the savings and loan frauds, the defense contractor procurement frauds, the insurance industry medicare frauds, and the rampant bank laundering of drug money suggest as well that the Department of Justice would have by far the largest institutional presence of anyone in the "private" business sector if the prosecutors applied their current RICO concepts across the board.

Beneath the rhetoric, the Government's IBT RICO Complaint, as we parse it, is premised on just two allegations, neither of which relate to the Union's current leadership or to the way the Union is currently administered.

The first allegation is that organized crime figures had "influenced" the elections of IBT General Presidents Roy Williams and Jackie Presser in, respectively, 1981 and 1986. While it is unclear what this "influence" amounted to, United States Attorney Romano, in his testimony last week, suggested that the Government's proof was strong, including admissions by Williams himself when he was seeking a reduction in his sentence.

What Mr. Romano neglected to state was, first, that after hearing similar statements from Roy Williams, Federal Judge Prentice Marshall minimized their significance, stating that Williams was a man who "would say anything, anything" to get out of jail.[1]

What Mr. Romano neglected to add was that to this day the government has yet to produce a single delegate, out of the 2,400 who elected Jackie Presser and the comparable number who elected Roy Williams, who admits to having had his or her vote influenced by organized crime figures.

Perhaps most importantly, what Mr. Romano neglected to point out was that this very allegation -- that organized crime influenced the elections of Roy Williams and Jack Presser -- was expressly rejected last year by a federal jury in New York which considered these precise charges, heard the Government's proof, and then unanimously acquitted the defendants of all counts relating to these charges. The defendants there, incidentally, were the very mobsters alleged to have influenced the elections.

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[1] _U.S. v. Williams_, tr. 12/2/85

This brings me to the heart of my objection to this first allegation in the IBT RICO Complaint. Even assuming for the sake of argument that the elections of Roy Williams and Jackie Presser had been secretly influenced by organized crime figures, the Government has never made any allegation that this was known to any current member of the IBT board. Nor has the Government suggested that any of their elections were so influenced. How, then, can this allegation provide a legal predicate for displacing any current IBT officer?

The second major allegation underlying the IBT RICO Complaint is the claim that the IBT officers had "failed to investigate and redress" mob-related violence and corruption in Teamster locals and benefit funds. As United States Attorney Romano stated to you last week, the essence of this allegation is that "[s]ince 1970, the government has brought more than 200 cases involving Teamsters related corruption and those cases have resulted in more than 340 criminal convictions[, y]et the Teamsters' leadership did literally nothing to remedy or even investigate that corruption ...."

As impressive as that litany of cases and convictions may sound, it takes no more than a cursory examination of the facts to show that there is more sound than substance.

Virtually none of these cases involves the IBT itself. The overwhelming majority instead involve individualized acts of criminal wrongdoing -- many constituting misdemeanors rather than the serious felonies that characterize organized crime -- separated in time and place. Over a period of 20 years, in a union with more than one-and-a-half million members, it is hardly surprising that there have been such crimes. In percentage terms, the record of the combined police forces of the United States --federal, state, and local -- would doubtless look no better.

It is noteworthy, too, that of the 12 cases the Government singles out in its IBT RICO Complaint as the most serious, all relate to local union misconduct or to the Central States Pension Fund. None relates to the IBT, and none relates to any current IBT officer.

Putting these factual points to the side, there is a more fundamental objection to a government takeover of an international union, and to the displacement of its duly-elected officers, on the basis of their supposed failure to investigate and redress local union misconduct. That is, such a failure is not a even criminal wrong, much less a basis for depriving the members of their organization or the elected officers of their positions.

Although the law and the facts in this regard are clear, somehow the Department of Justice fails to understand that in labor unions, unlike corporations, power flows from the bottom up, rather than from the top down. In most of our international unions, including the IBT, the international does not have a right of control over its affiliated locals, does not have any say in the selection of local officers and employees, and does not have any role in the locals' day to day affairs.

Against this background I submit that it is fundamentally unfair for the Government to base a RICO case on a theory of "failure to investigate local union misconduct". As I have emphasized, it is the Government, not the international unions, that has the powerful investigatory and prosecutorial tools. Not surprisingly, then, the FBI and local police typically open these investigations well before the international officers even learn of the underlying events. And when the public officials prove a criminal case under the federal law, the wrongdoers are removed from office.

As I have also emphasized, it is altogether right and proper that the police should be so involved. What is not at all right and proper is to place this police responsibility on international union officers -- without giving the international unions commensurate power -- and to claim that failure to fulfill the responsibility is itself a RICO predicate warranting their removal and a government trusteeship. If RICO cases are a means of assessing blame for undetected or unremedied local union wrongdoing, I am hard-pressed to understand why the Government is not the logical defendant rather than the supposedly aggrieved plaintiff.

The allegations in the IBT RICO Complaint regarding the alleged failure to investigate corruption in pension and benefit funds are, if anything, even wider of the mark. Under the Taft-Hartley Act, these funds operate as legal entities separate from both unions and employers. The unions' sole permitted role in the funds' administration is to appoint half the trustees. Thereafter, oversight is vested with the Department of Labor and, to a lesser extent, the Department of Justice.

As the foregoing implies, I believe that the misuse of RICO is a function not only of the statute's unconfined contours, but also of the Justice Department's unfamiliarity with -- or unwillingness to be bound by -- fundamental principles and policies of federal labor law. According to United States Attorney Romano, in his testimony to this Subcommittee, the Government's most important achievement in its IBT suit and settlement is the provision for direct election of the IBT General President and certain other high officers. The implication is that democracy would now replace some undemocratic system previously in place.

But Congress, in enacting the Landrum-Griffin law, carefully considered what constitutes a democratic method of electing union officers and expressly approved two options. One is the direct election method, one that, when applied to a union as large as the IBT, is bound to create problems of its own. These problems are well known to members of Congress. They include the question of how to properly raise the large sums of money needed to fund a campaign among one-and-a-half million voters.

The other option is the convention method, similar to that used by the major political parties to select their presidential nominees, by which local delegates elect the international officers. These delegates are elected either *ad hoc* or in conjunction with their election as local officers, but in any case by secret ballot.

Prior to the recent settlement, the IBT opted for the second of the two alternatives Congress provided, the convention system, as have the overwhelming majority of AFL-CIO unions, who believe it to be, if anything, more democratic and more responsive than the direct election alternative.

Now, the Department of Justice, with little if any expertise in this area, has obliged the IBT to switch to the direct election alternative as part of the price of settling an onerous lawsuit. The Department evidently believes that this system is less subject to organized crime influence than the convention system. Yet, as I understand matters, the Department has never produced any evidence as to how this pernicious mob "influence" over elections was exercised.

I therefore continue to take the simple-minded view that the way to root out improper mob influence is to prosecute the mobsters for proven misconduct, rather than authorize the Department of Justice to theorize as to which of two systems -- both fully approved by Congress -- should be forced upon union members to "protect" them from alleged mob influence.

* * *

There are many millions of scrupulously honest trade unionists in this country. I try to take my lead from them. One of the best is Joel R. Jacobson, the original trustee of Local 560. Mr. Jacobson's account of his experiences as a Government trustee, which appeared in the May 1, 1988 issue of the New Jersey Reporter, a copy of which I have attached to my testimony, is worthy of the Subcommittee's consideration.

In that article, Mr. Jacobson states that his efforts to bring greater democracy to Local 560 were thwarted, not by any mobster, but by federal prosecutors and by a judge who believed that, in the judge's words as quoted in the article, "when it comes to the members of Local 560, they are all guilty until proven innocent."[2] When Mr. Jacobson refused the demand that he remove all 400 shop stewards in the local, in the absence of any hard evidence of misconduct, he was removed and replaced as trustee.

But the new trustee, in his term, was unable to make out a case against any of the shop stewards. And the union members, at their first opportunity, elected the slate of officers most opposed to the trusteeship. Mr. Jacobson concludes from his experience:

> The RICO statute is based upon the totalitarian concept of collective guilt. If the government has the goods on any predatory mob hoodlum masquerading as a trade unionist, I will be the first to cheer when it indicts, tries, convicts and jails him. [But t]he removal of union officers accused of unspecified crimes and imprecise associations from the testimony of faceless accusers, unavailable for cross-examination,

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[2] N.J. Reporter, 5/1/88, at p. 20 (quoted by J. Jacobson).

is unacceptable in a democracy.[3]

Until I encountered the RICO statute, I thought that this was the law. It most assuredly should be the law. It is therefore my hope that this Subcommittee will give serious consideration to the three suggestions made by Mr. McCarthy and to my additional suggestion. What we seek is the continued strenuous prosecution of miscreants in a way that does not injure the innocent or do permanent damage to a free and independent trade union movement.

Thank you.

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[3] *Id.* at 96.

Responses by Lane Kirkland, President, AFL-CIO, To The Written Questions Propounded By The Permanent Subcommittee on Investigations In Connection With The Subcommittee's Hearings On "Federal Government's Use of Trusteeships under the RICO Statute"

Q. Do you have any suggested alternatives to RICO for the Government in combatting longstanding corruption in a Union?

A. In my prepared testimony (at pp. 7-8) I stated,

> So that I am not misunderstood, I hasten to add that I do not blink at the threat posed by organized crime, nor do I claim that either freedom of association or due process go so far as to meant that the prosecutorial power cannot be supplemented by appropriate civil law powers.
>
> The worst case situation I have hypothesized may well, for example, call for an active government role in overseeing the process by which the membership chooses new leaders to replace those who have been properly debarred. After all, the Landrum-Griffin Act grants such an authority on far lesser grounds. It may be appropriate as well in that situation to authorize the government to secure injunctive relief against individuals who can be shown to have been involved in the prior wrongdoing, but who for some reason are not subject to prosecution. Additionally, I would not categorically rule out authorizing strict government scrutiny of the union's expenditures to assure that its funds do not flow to the deposed leadership, to their associates, or to organized crime figures.
>
> There is every reason to believe that options like these -- and I do not pretend to have exhausted the possibilities -- would provide a significant break with the past and would work to promote the free exercise of democratic rights. At the same time, these options respect due process concerns by requiring the government to prove a criminal case as the precondition to removing a union officer from his position. And they respect freedom of association concerns by denying the

> government the power to deprive those who have not been proved guilty of wrongdoing of the right to play an active lawful role in their association.

On the further thought generated by the Subcommittee's questions, I continue to believe that such alternatives are plainly preferable to RICO trusteeships.

Q. William J. McCarthy and James Grady, testifying before this Subcommittee last week on behalf of the International Brotherhood of Teamsters, suggested three changes to the RICO statute, specifically:

- an amendment barring the imposition of a trusteeship on any labor Union;
- an amendment barring pre-trial imposition of such remedies prior to a full evidentiary hearing, held on the merits of the underlying allegations; and
- an amendment barring the Government from preventing the payment of attorneys' fees by a Union to defend either the Union itself or Union officers.

Do you support these amendments? Why or why not?

A. I supported those suggestions in my prepared testimony (at pp. 11-20) and for the reasons spelled out there, I continue to do so.

Q. In your view, is the Government ever justified in imposing a RICO trusteeship in a labor Union? What about a situation where corruption and intimidation of members has persisted for years, despite repeated criminal prosecutions?

A. No. Again, my prepared testimony (at pp. 1-10) states my considered views on what I characterized as a "matter of principle" and I have nothing further of substance to add. I would stress, however, the relevance in this regard of my answer to the first of these written questions.

Q. In his April 6, 1989, testimony before this Subcommittee, Mr. Eugene R. Anderson, trustee of Laborers' Local 6A, stated: "We received, really, a rebuff from the International. I wanted to get assistance from the International to run campaigns on such things as how to install some democracy in the Union.

We went from the president of the International to the general counsel, down to a lawyer on his staff and finally decided that that was not fruitful."

Moreover, in his statement for the hearing record, Mr. Edwin Stier, trustee of Teamsters Local 560, stated, "In an effort to conform as closely as possible to the election procedures set forth in the Union's constitution and bylaws, the International Brotherhood of Teamsters was requested to provide certain assistance. They responded to all of our requests with complete cooperation ...."

Evidently, International Unions affiliated with the AFL-CIO can treat trusteeships in completely different ways. If a Local or other labor entity is placed into trusteeship, which method of approach would you advocate? How should an International treat a labor entity in trusteeship?

Q. Do you believe that in the case of Local 6A, the Laborers' International should be cooperating with the trustee? If so, what, if anything, can the AFL-CIO do to ensure better cooperation by the International?

A. It is my firm conviction that as long as the RICO statute is the law of the land, international unions have an obligation to themselves and to their members to assist RICO trustees in every possible fashion in a manner that furthers the member's interests and safeguards their trade union and collective bargaining rights. The AFL-CIO stands ready to provide its good offices in any such case.

On the related question raised concerning the Laborers' Local 6A case, I refer the Subcommittee to the Statement of the Laborers' General President Angelo Fosco submitted on April 28, 1989 outlining the Laborers' efforts to be of service to the RICO trustee in that case.

Q. In the recent settlement with the Government, the Teamsters agreed to having a triumvirate of administrators oversee the day-to-day operations of the International, while leaving the elected officials in place. Similarly, in Philadelphia, a Federal judge in the Roofers case imposed a decreeship on that Local which allowed the elected officers to stay in place, but installed a chief liaison officer to monitor the Union's activities.

Both of these cases differ from the trusteeship mechanism, as used in Local 560, where the trustee runs the Union in place of elected Union officials. Are the methods used in the IBT and Roofers cases acceptable to organized labor?

A. When the settlement of the Teamsters case was announced, I stated that the AFL-CIO "welcome[s] any equitable, agreed upon resolution of the issue that preserves the integrity of the organization free of governmental control." My current view is the same. And, as indicated by the answer to the first of these written questions, the AFL-CIO regards remedies in RICO suits that limit the Government to a secondary role -- and grant the power to review the actions of the union's properly elected officer to assure against any continuation of a prior proved pattern of illegal acts -- as qualitatively superior to the remedy of a RICO trusteeship.

Q. What else can the AFL-CIO do to better address the problem of corruption within the labor movement?

A. The AFL-CIO's present position on how to control corruption in the labor movement is the result of serious and sustained consideration and represents our best thoughts on the subject. Obviously, however, we are not law enforcement experts nor the natural repository of wisdom on this subject. Thus, at the suggestion of the Subcommittee Chairman -- and under his good offices --I have been holding a series of meetings with the Justice Department and Labor Department officials who have responsibilities in the labor-management racketeering area to discuss what still needs to be done and how best to meet those needs. I am optimistic that these conversations will prove fruitful.

Lane Kirkland

LANE KIRKLAND

Statement of Richard G. Hunsucker
Director, ~~Office of~~ Elections,
Trusteeships and International Union Audits
Office of Labor-Management Standards (OLMS)
Department of Labor
Before The
Permanent Subcommittee
on Investigations
Committee on Governmental Affairs
United States Senate
April 12, 1989

Mr. Chairman and Members of the Subcommittee:

Thank you, for inviting me to appear before this Committee to discuss RICO, the Racketeer Influenced and Corrupt Organizations Act, and the Department's role in assisting the courts and the Department of Justice when a labor organization trusteeship is imposed under RICO. Before sharing with you my thoughts about what the Department of Labor's role could be in RICO trusteeships, I would like to briefly discuss our experience in administering the Labor-Management Reporting and Disclosure Act of 1959, the LMRDA, which is the primary Federal law that deals with internal union affairs. I would also like to summarize what we have done in prior RICO trusteeships in response to requests from the courts and the Department of Justice.

The LMRDA

As you know, the purpose of the LMRDA is to ensure basic standards of democracy and fiscal responsibility in labor organizations representing employees in private industry. The major provisions of the LMRDA with regard to unions are:

- a bill of rights for union members,
- requirements for reporting and disclosure of financial information and administrative practices,
- rules for establishing and maintaining a trusteeship by a parent body over a subordinate union,
- standards for conducting fair elections of union officers, and
- safeguards for protecting union funds and assets, such as fiduciary standards for union officials.

In carrying out our responsibilities under the LMRDA, the Department of Labor performs four types of activities:

- public disclosure of the reports required by the LMRDA,
- compliance audits of unions to ensure they are following the LMRDA provisions,
- civil and criminal investigations to determine whether the LMRDA has been violated, particularly in regard to union officer elections and the handling of union funds, and

- educational and compliance assistance activities to help union members understand their rights under the LMRDA and to encourage unions to comply with its provisions.

Although the Department has an important role in administering the LMRDA, one of the major purposes of the law is to provide members with the tools to run their unions themselves with minimal governmental intervention. For example, the LMRDA enables members to get critical information about their unions' financial and administrative affairs from the reports filed by their unions and from their right to examine the supporting records. In addition, members may themselves bring civil litigation to remedy violations of many LMRDA provisions such as the bill of rights for members, the fiduciary standards, and the trusteeship requirements. Also, with regard to union officer elections, the Department can only investigate an alleged violation after a member has first filed a complaint with the union in order to allow the union an opportunity to resolve the matter. Moreover, if a new election is held, either as a result of voluntary compliance or after the Department has brought litigation, the union is still responsible for the actual conduct of the election, but under the Department's supervision. Finally, the remedies and penalties which the LMRDA establishes for violations are specific, and this minimizes the ability of the Department or the courts to order actions that can substantially change the union's structure or the way it conducts its affairs.

LMRDA and RICO Trusteeships

I have referred to the trusteeship provisions of the LMRDA, but it is important to point out that these are substantially different from RICO trusteeships. The LMRDA trusteeship provisions are intended to prevent a parent union from abusing its authority and position when it establishes and administers a trusteeship over a subordinate body. Although Congress found that there had been such abuses, when it enacted the LMRDA in 1959 Congress also recognized that union trusteeships were used to assist subordinate unions that were in difficulty and to promote union democracy. Accordingly, Title III of the LMRDA aims to correct abuses that may occur in the use of trusteeships without preventing unions from imposing and maintaining trusteeships when necessary.

Specifically, Title III of the LMRDA:

- prescribes the conditions under which a trusteeship may be established and continued by a parent union over a subordinate union,

- makes it a crime to count the votes of delegates from a trusteed union who have not been democratically elected or to transfer funds from the trusteed union to the parent body, and

- requires reporting and public disclosure regarding the imposition and continuation of a trusteeship.

The role of the Department of Labor under LMRDA Title III is limited to:

- initiating litigation upon the complaint of a member if a trusteeship is found to be improperly imposed or maintained,
- reviewing the trusteeship reports filed by the parent union and making them available for public disclosure, and
- referring to the Department of Justice for possible criminal litigation any evidence of improper counting of delegate votes, transfer of funds from the trusteed organization to the parent union, or criminal reporting violations.

A RICO trusteeship, on the other hand, is established by court order and administered under court supervision in order to take affirmative action to correct abuses and improper practices by a union. It is imposed after initiation of civil litigation, brought by the Department of Justice, where it is demonstrated that a trusteeship is an appropriate remedy for a racketeer-controlled union. The court has great flexibility in setting the terms of a trusteeship, including limiting the activities of any of the defendants, and even restructuring the organization, in order to prevent and restrain violations of RICO. The LMRDA Title III requirements do not apply to RICO trusteeships and there is no relationship between LMRDA Title III trusteeships and RICO-imposed trusteeships.

DOL Role in Prior RICO Trusteeship Cases

The Department of Justice is responsible for enforcing RICO in general and for seeking court trusteeships over unions in appropriate cases. In addition to the litigation involving the Teamsters International, the Department of Justice has sought RICO trusteeships over local unions -- for example, Teamsters Local 560, Teamsters Local 814, Roofers Local 30, Cement and Concrete Workers Local 6A, and the United Seafood Workers Local 359.

The Department of Labor does have substantial expertise with regard to unions, of course, because of OLMS' administration of the LMRDA and the enforcement efforts of the Inspector General's Office of Labor Racketeering whose representative will testify separately before you. In this connection, we have assisted the

Department of Justice in the litigation involving the Teamsters International by providing copies of both public disclosure documents filed with the Department of Labor and other documents relating to investigations under the LMRDA. Also, as discussed below, OLMS has assisted Justice and the courts in three of the local union cases by providing expertise based on our administration of the officer election provisions in Title IV of the LMRDA.

A. Teamsters Local 560

The first civil litigation brought by the Department of Justice seeking a court-ordered supervision of a union was against Teamsters Local 560 in northern New Jersey in March 1982. The trusteeship went into effect in May 1986, after appeals were exhausted. A mail ballot election of officers was held in early December 1988.

OLMS assisted in the planning of the election. Even before the trusteeship went into effect, OLMS reviewed Local 560's constitution for the Department of Justice and noted several provisions that potentially conflicted with the LMRDA. After the trusteeship was established, OLMS officials had numerous telephone discussions and attended several meetings with Department of Justice officials and the court-appointed trustees. We also prepared a pre-election agenda for the election and participated in meetings at which a proposed timetable for the election was developed.

B. Teamsters Local 814

The Department of Justice brought civil RICO litigation against Teamsters Local 814 in New York in August 1987. In October 1987, the union agreed to a consent judgement under which a trustee was appointed to oversee the union's affairs that were being conducted by its interim appointed officers. It also called for the Department of Labor to become directly involved by supervising the union's next officer election.

In December 1987, OLMS officials had discussions with the Department of Justice about the Local 814 election of officers. DOL officials also discussed the terms and schedule for the mail ballot election with the trustee. The election, under joint supervision of the Department and the trustee was concluded on February 7, 1989, and the ballots were counted the following day. However, there were some objections to the conduct of the election which the OLMS field office investigated and processed under our standard procedures for handling LMRDA election cases. The case is currently under review by the OLMS National Office and the Solicitor of Labor. Afterwards, the results will be given to the U.S. Attorney's office and the trustee.

C. Roofers Local 30

The Department of Justice brought civil RICO litigation against Roofers Local 30 in Philadelphia in December 1987. On May 23, 1988, the court imposed a "decreeship" over Local 30, under which the union was allowed to keep its officers who were to report to a court-appointed liaison officer. Prior to the imposition of the "decreeship", the union held a special officer election in December 1987, to fill the vacancies created by the criminal RICO convictions of all its officers the previous month. Shortly before that special election, the Department of Labor declined the union's request to supervise the election because the RICO suit was still pending and we had no jurisdiction under the LMRDA.

After the "decreeship" was imposed, OLMS provided the liaison officer with information regarding the union's financial reports and the proper procedures for electing local delegates to the upcoming convention at which the Roofers International officers would be elected. In July 1988, a Department of Labor representative attended a court hearing at the court's request concerning the delegate election, and advised the court that the Department had no jurisdiction under the LMRDA to supervise the union's election of delegates. After the election was held, the Department received a complaint about that election, which was investigated and processed under our standard procedures. No violations were found that could have affected the outcome of the election, and the complaint was dismissed.

In subsequent discussions with the U.S. Attorney's office and with the liaison officer, the Department of Labor has offered to provide assistance to the liaison officer and the union in conducting its next regularly scheduled officer election in June 1989, and to supervise the election if the Department of Labor is given a basis for jurisdiction by a court order. On March 21, 1989, the presiding judge issued an order directing Local 30 to conduct nominations for all officers in May 1989, and an election in June 1989. The order directed the liaison officer to work in conjunction with the Secretary of Labor to develop an election plan which encompasses pre-election, election, and post-election, procedures in accordance with the standards developed under the LMRDA, the constitution and by laws of Local 30 and the court's decree of May 23, 1988. Accordingly, OLMS worked with the liaison officer and the Assistant U.S. Attorney to develop an election plan. It is anticipated that the court will issue further orders directing the Secretary of Labor to supervise the election with the court-approved plan.

DOL Assistance in Future RICO Trusteeships

Based on OLMS' experience and knowledge of unions, I see two general areas in which we can assist the Department of Justice and the courts in administering RICO trusteeships and in helping achieve the goal of free and democratic unions. The two areas are the conduct of officer elections and the review of financial practices. These are the most important areas for ensuring democratic and financially responsible unions. The assistance we provide would also educate the union's members and officers on their rights and obligations under the LMRDA and lay the foundation for them to meet, or even exceed its standards.

A. Officer Elections

The Department could provide a variety of services in the conduct of union officer elections. For example, we could:

- advise the trustee of the LMRDA election requirements and provide practical suggestions for conducting a union officer election,

- advise the trustee of potential problems with the election procedures in the union's constitution and bylaws,

- advise the trustee of ways in which the union's constitution and past practices can be revised in order to satisfy or exceed the minimum LMRDA election requirements,

- meet with the union's officers to advise them of the LMRDA requirements and the rights of members and candidates,

- assist in preparing a notice for distribution to the union's members, or meet with the union's members, to advise them of the LMRDA rules and the rights of members and candidates, and

- supervise the conduct of an officer election, or actually conduct the election in certain circumstances.

B. Review Financial Practices

The Department of Labor could also offer a number of services in reviewing union financial practices. For example, we could:

- advise the trustee of the LMRDA requirements regarding financial reporting, recordkeeping, disclosure to members, bonding and other fiduciary provisions to protect union assets,

- conduct seminars to instruct union officials and members of these LMRDA requirements,

- recommend, based on LMRDA standards and generally accepted accounting principles, any necessary financial controls or other revisions of the union's financial practices needed to protect its assets for the members and to improve the information available to members, and

- audit the union's finances for several years to determine the adequacy of its records, potential problems in its financial practices, and any possible financial improprieties.

Let me close by emphasizing that OLMS has always been willing to provide assistance to the courts and the Department of Justice in their administration of trusteeships established under RICO, to the extent that resources and jurisdiction permit. I have pointed out several ways in which we could possibly do even more. I think we all agree with the importance of doing what we can to ensure that unions are run by and for the benefit of their members. The Department of Labor could provide invaluable assistance in meeting this goal.

U.S. Department of Labor

Office of Labor-Management Standards
Washington, D.C. 20210

Reply to the Attention of

AUG 22 1989

The Honorable Sam Nunn
Chairman, Permanent Subcommittee
  on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510-6250

Dear Senator Nunn:

This is in response to the April 27 and the July 27 letters from Chief Counsel Eleanore J. Hill concerning my written responses to additional questions to be included in the final record of the Permanent Subcommittee on Investigations' hearings on "Federal Government's Use of Trusteeships under the RICO Statute."

The enclosed responses have been prepared from the perspective of the Department of Labor's Office of Labor-Management Standards (OLMS). OLMS administers various provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), which was enacted to ensure basic standards of democracy and fiscal responsibility in labor unions. The LMRDA regulates certain aspects of internal union affairs such as elections of officers, trusteeships imposed by national and international unions over subordinate bodies, reporting, and safeguards for union funds and assets.

OLMS' role in the Federal government's use of RICO trusteeships has been limited to providing information to the Department of Justice (DOJ) which, of course, has primary responsibility for RICO litigation and providing assistance during certain trusteeships to DOJ, and the trustees based on our LMRDA expertise. My responses do not speak for the Department of Labor as a whole since the Office of the Inspector General has a separate role and, I understand, is responding to separate questions for the record.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Richard G. Hunsucker, Director
Office of Elections, Trusteeships,
  and International Union Audits

Enclosures

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD, HEARINGS ON RICO TRUSTEESHIPS BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Richard G. Hunsucker, Director, Office of
Elections, Trusteeships and International Union Audits,
Office of Labor-Management Standards, Department of Labor

* * * * *

Q. Mr. Hunsucker, what is the current Department of Labor policy on providing assistance to trusteeships created under the civil provisions of RICO? Are there any legal or other impediments which would preclude you from rendering assistance to a civil RICO trusteeship?

A. Since RICO trusteeships are relatively new enforcement tools, and our understanding of the needs of the trustees is still developing, the Department of Labor (DOL) as far as I am aware has not had occasion to adopt a formal policy on providing assistance. In my agency, the Office of Labor-Management Standards (OLMS), we have always been available to provide assistance to the Department of Justice, the trustees, and the courts consistent with our responsibilities under the Labor-Management Reporting and Disclosure Act (LMRDA). I am not aware of any legal impediment which would preclude our providing assistance.

Q. What is the current policy of the Office of Labor Racketeering regarding the use of trusteeships under civil RICO? Does the Department feel this is an appropriate remedy for labor corruption and racketeering? Is it to be used in every successful criminal prosecution? If not, what criteria do you examine to determine whether a civil RICO suit is appropriate?

A. I cannot speak for the Office of Labor Racketeering which I understand will be responding separately to questions for the record.

Q. To what extent has your office been in contact with the trusteeships already in operation:

Teamsters Local 560, Union City, New Jersey;
Teamsters Local 814, Long Island City, New York;
Laborers Local 6A, New York, New York;
Roofers Local 30/30B, Philadelphia, Pennsylvania; and
Fulton Fish Market, New York, New York?

A. OLMS has not been contacted by the Department of Justice or the trustee in connection with the trusteeship over Laborers Local 6A. Also, we had no involvement in the Fulton Fish Market trusteeship or with the union involved in that case, Local 359 of the United Seafood Workers.

With regard to the other three trusteeships, OLMS has provided assistance to the Department of Justice and the trustees. Our contacts, as discussed in more detail in my prepared statement, were as follows:

A. Teamsters Local 560

Before the trusteeship over Teamsters Local 560 went into effect, OLMS reviewed its constitution for the Department of Justice and noted several provisions that potentially conflicted with the LMRDA. After the trusteeship was in place, OLMS officials had numerous telephone discussions and attended two meetings with Department of Justice officials and the court-appointed trustee. OLMS prepared a pre-election agenda; participated in meetings at which a proposed timetable for the election was developed; and assisted in the planning of the mail ballot election of officers that was held in early December 1988.

B. Teamsters Local 814

The Consent Judgment agreed to by Teamsters Local 814 and the Department of Justice called for the Department of Labor to become directly involved in supervising the union's next officer election. In December 1987, OLMS officials had discussions with the Department of Justice about the Local 814 election of officers. OLMS officials also discussed the terms and schedule for the mail ballot election with the trustee. The election, under joint supervision of OLMS and the trustee, was concluded on February 7, 1989, and the ballots were counted the following day. OLMS investigated the objections to the conduct of the election and we have submitted a certification of the results of the election to the U.S. Attorney.

C. Roofers Local 30-30B

Prior to the imposition of the decreeship over Roofers Local 30-30B, the union held a special officer election in December 1987 to fill the vacancies created by the criminal RICO convictions of all its officers the previous month. Shortly before that special election, OLMS declined the union's request to supervise the election because the RICO suit was still pending and we had no jurisdiction under the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA).

After the decreeship was imposed, OLMS provided the liaison officer with information regarding the union's LMRDA financial reports and the proper procedures for electing local delegates to the upcoming convention which would elect the Roofers International officers. In July 1988, an OLMS representative attended a court hearing at the court's request concerning the delegate election, and advised the court that OLMS had no jurisdiction under the LMRDA to supervise the union's election of delegates. After the election was held, OLMS received a complaint about that election, which was investigated and processed under our standard procedures. No violations were found that could have affected the outcome of the election, and the complaint was dismissed.

In subsequent meetings with the U.S. Attorney's Office and with the liaison officer, OLMS offered to provide assistance to the liaison officer and the union in conducting its next regularly scheduled officer election in June 1989, or to supervise the election if given a basis for jurisdiction by a court order. On March 21, 1989, the presiding judge issued an order directing Local 30 to conduct nominations for all officers in May 1989 and an election in June 1989. The order directed the liaison officer to work in conjunction with the Secretary of Labor to develop an election plan which encompasses pre-election, election, and post-election procedures in accordance with the standards developed under the LMRDA, the constitution and bylaws of Local 30, and the court's decree of May 23, 1988. Accordingly, OLMS worked with the liaison officer and the Assistant U.S. Attorney to develop an election plan. In an April 11 order the court directed that the election be conducted by mail ballot in June and that the ballots be counted under the supervision of the Department of Labor and the liaison officer.

Q. Mr. Hunsucker, we have heard testimony from the International Brotherhood of Teamsters that the Government's use of the civil provisions of RICO and trusteeships is "inconsistent with Federal labor policy." In your statement, you differentiate between the Landrum-Griffin Act and RICO. In your opinion, does RICO thwart the intent of Landrum-Griffin? Or does RICO enhance the protections of the Landrum-Griffin Act?

A. As I noted in my prepared statement, "the purpose of the LMRDA (Landrum-Griffin Act) is to ensure basic standards of democracy and fiscal responsibility in labor organizations." RICO trusteeships have the same goal, to establish or restore democracy and fiscal responsibility. Inasmuch as the Department of Labor has not taken a position regarding the possible impact of RICO and Landrum-Griffin upon each other, it is not within my purview to voice an opinion on that subject.

Q. Once a trusteeship is established, does the DOL maintain a liaison with the trustee to ensure that adequate assistance is being provided? What office is responsible for that liaison?

A. At this early stage in the use of RICO trusteeships, we are still developing our understanding of the needs of trustees and how various Government agencies can best provide assistance consistent with their resources, authority, and other responsibilities. Consequently, as far as I know, DOL as a whole has not developed formal liaison with trustees. While I cannot speak for the other agencies of the Department, OLMS has provided assistance to the trustees and the Department of Justice as requested, and we have made personnel generally available for consultation as needed. However, the needs of the trustees clearly go beyond what any one agency or Department can provide. It is not yet clear, moreover, exactly what assistance is needed, which agencies should provide whatever assistance may be needed, and how the provision of assistance should be coordinated.

Q. What type of support is the DOL prepared to provide to the IBT administrators? In view of the importance of this case, is the DOL committed to working with the court-appointed administrators?

A. OLMS will be available to provide assistance that the IBT administrators determine is needed and to work with them, consistent with our resources and other responsibilities. As I discussed in greater detail in my prepared statement, some of the areas in which OLMS could be helpful are in planning and perhaps participating in the conduct of officer elections, conducting financial audits and other investigations regarding potential LMRDA violations, and assisting in developing financial safeguards.

Q. Mr. Hunsucker, what success have you experienced in the prior assistance you have rendered to RICO trusteeships? Have the elections been challenged? In your opinion, has democracy been restored to the Locals in question?

A. Any success achieved thus far in this area that I am aware of can be attributed primarily to the extraordinary efforts of the trustees involved. OLMS has to date assisted in the officer elections in Teamsters Locals 560 and 814. Both were fair and democratic elections, which I consider major accomplishments for the trustees.

Q. Do you feel that the Government furnishes adequate support to trusteeships once they are operating?

A. As I and other witnesses stated at the hearings, the trustees have extraordinarily difficult jobs at the front lines in the battle against organized crime. However, at this early stage in the use of RICO trusteeships, we are all trying to determine what and how much support is needed and how it should be provided.

Q. What specific recommendations do you have as to the use of civil RICO, the creation of trusteeships, and the relationship between a trusteeship and the Government?

A. Since the Department of Labor has not taken a position concerning these matters, I have no recommendations to offer.

Q. Mr. Hunsucker, what expertise can the DOL provide to the U.S. Attorney or Strike Force when they are crafting the requested relief to the court? Have you provided expertise to them in the past?

A. OLMS' experience with and knowledge of union operations could be of great assistance not only to trustees in achieving the goals of trusteeships, but also to the Department of Justice and the courts in crafting remedies and settlements. As I discussed in my prepared statement, in the critical areas of officer elections and financial practices, we could offer a number of services in helping to develop improved procedures and to educate members and officials about their rights and obligations. To date, our assistance has generally been requested by the Department of Justice and the trustees in connection with officer elections after the trusteeships have been imposed.

Q. During his testimony before the Subcommittee, Mr. Edwin Stier, trustee of Teamsters Local 560, was asked if the trustees had received adequate assistance from the Federal law enforcement community and the Department of Justice. He replied, "Institutionally, the Department of Justice and the Department of Labor have not geared themselves to provide the kind of support that a trusteeship needs...The kinds of resources, the people that are provided, the kind of help that I have needed, just simply isn't there."

Mr. Eugene Anderson, trustee of LIUNA Local 6A, stated, "I think we need support from the Department of Labor on changing the culture, getting people educated about Union democracy."

"How do you respond to this testimony? Is the Department of Labor "geared" up to meet the needs of trusteeships? How can DOL assist a trustee in educating the rank and file about union democracy?

A. OLMS has the commitment to provide assistance in our areas of expertise to the trustees when they identify their needs and communicate them to us, either directly or through the Department of Justice. For example, in addition to the election advice and training I have already discussed, OLMS has in place a number of compliance assistance and education programs for both officers and members which we regularly present to unions. However, OLMS does not have any program or administrative structure geared specifically towards assisting trustees. Moreover, I am not sure that it is appropriate or practical, at least at this point, to create programs and organizations for this purpose. We may not have had sufficient experience with RICO trusteeships to know in advance exactly what trustees may need from various agencies, especially since their needs may differ from case to case; and of course such programs and organizations decrease resources available for our other responsibilities.

Q. Do you believe that there is a greater need for the Department of Justice to coordinate the resources of the Federal Government to ensure that adequate assistance is rendered to civil RICO trusteeships?

A. As I have stated, more needs to be done to provide the trustees with whatever assistance is needed to maximize their chances of success. Since the Department of Justice is the agency that brings RICO litigation and seeks trusteeships as the appropriate remedy, it is obviously the leading candidate to coordinate the provision of assistance to trustees.

Q. General President William J. McCarthy and General Counsel James Grady, testifying last week on behalf of the IBT, suggested three changes to the RICO statute, specifically:

- an amendment barring the imposition of a trusteeship on any labor union;
- an amendment barring pre-trial imposition of such remedies prior to a full evidentiary hearing, held on the merits of the underlying allegations; and
- an amendment barring the Government from preventing the payment of attorney's fees by a Union to defend either the Union itself or its officers, members, etc.

Do you support these amendments? Why or why not?

A. The Department has not to my knowledge taken a position on these issues, and consequently I have no comments to make in regard to them.

Q. What role do you believe the AFL-CIO can play in addressing corruption and labor racketeering?

A. Absent the Department of Labor adopting a position with regard to this subject, I have no opinion to offer.

Q. You stated that last year OLMS referred approximately 400 criminal investigations to the United States Attorney's Office. Could you provide the Subcommittee with a list of referrals for fiscal year 1988?

A. In my testimony before the Subcommittee on April 12, 1989, I stated that OLMS conducted approximately 400 or so criminal investigations in FY 1988. I was referring to the number of criminal case investigations which we closed in FY 1988.

In reviewing the actual records now in order to comply with your request, I find that a total of 422 criminal investigation cases were closed in FY 1988. A printout listing those cases is attached. Of these 422 cases, 295 involved discussions with U.S. Attorney Offices and/or local prosecutors for delegation to investigate and review of subsequent investigative findings. The remaining 127 cases were closed following preliminary investigation showing no criminal or other violations.

Q. Of those referrals, how many were actually formal presentations to the U.S. Attorney's Office?

A. In FY 1988, OLMS formally presented 295 criminal cases to U.S. Attorneys or local prosecutors for consideration of prosecutive action. Of these 295 cases, prosecution was declined in 124 cases.

Q. What was the average monetary loss in these cases? What was the highest? What was the lowest?

A. The 295 cases formally presented to U.S. Attorneys and local prosecutors disclosed an aggregate monetary loss of approximately $2.9 million. The highest monetary loss was $379,641 and the lowest was $150. The average loss was $9,830.

Q. How many of these cases have resulted in a criminal conviction? Of those convictions, how many were by plea agreement, trial, or pre-trial diversion?

A. Convictions were obtained in 169 of the cases closed in FY 1988. Of these, 150 were plea agreements, 3 were by trial, and 16 were by pre-trial diversion.

Q. How does OLMS generate these cases? Are they through your own investigations, or are they the result of complaints?

A. OLMS field offices have been delegated authority to pursue criminal investigations involving embezzlement of union funds on the basis of specific complaints from union members/ officers; intelligence information such as referrrals from other agencies, newspaper articles, etc.; desk audits of annual financial reports; surety company reports; and other OLMS investigations/audits.

Of the cases closed in FY 1988, approximately 20% were opened on the basis of information received from union officials; 17% on the basis of complaints or information from union members or others; 23% on OLMS reviews of union financial reports; and 25% on the results of OLMS compliance audits. The remaining 10% were opened for various reasons, including referrals from other agencies and bonding claims.

U S DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
CASES CLOSED DURING FY 1988 - PROGRAM 5

CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
01A-14200-08	071014	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00036	03-21-89
01A-14346-08	034743	TRANSIT UNION AFL-CIO	LDIV	01205	06-29-88
01A-14530-08	513974	STEELWORKERS AFL-CIO	LU	01-09057	03-18-89
01A-14547-08	039565	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	00347	11-24-87
01A-14562-08	002883	CARPENTERS AFL-CIO	LU	00176	03-25-89
01A-14655-08	083283	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	00012	12-31-87
01A-14668-08	065400	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	01981	11-30-87
01A-14681-08	048182	UTILITY WORKERS OF NEW ENGLAND IND	LU	00329	02-28-89
01A-14709-08	025804	CHEMICAL WORKERS AFL-CIO	LU	00057	06-07-88
01A-14710-08		STATE, COUNTY AND MUNICIPAL EMPL.	LOCAL	1118	06-20-88
01A-14721-08	066147	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	01069	02-25-88
01A-14728-08	025360	OFFICE & PROFESSIONAL EMPLS AFL-CIO	LU	00006	12-17-87
01A-14729-08	017831	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00592	11-18-87
01A-14739-08	062590	RUBBER WORKERS AFL-CIO	LU	00764	09-29-89
01A-14741-08		PLANT PROTECTION EMPLOYEES	LOCAL	9	03-23-88
01A-14742-08	500001	GOVERNMENT EMPLS NAGE SEIU AFL-CIO	NHQ		06-16-88
01A-14743-08	501635	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02378	07-08-88
01A-14760-08	033817	ELECTRICAL WORKERS UE IND	LU	00271	04-04-88
01A-14773-08		STATE, COUNTY & MUNICIPAL EMPLS.	LOCAL	1201	05-11-88
01B-06344-08		SERVICE EMPLOYEES			03-31-88
01B-06806-08	004153	LABORERS AFL-CIO	LU	00091	01-12-88
01B-06948-08	005014	TEAMSTERS IND	LU	00375	01-07-88
01B-06949-08	023241	FIREMEN & OILERS AFL-CIO	LU	00933	01-08-88
01B-06987-08	018068	ELEVATOR CONSTRUCTORS AFL-CIO	LU	00043	07-13-88
01B-07002-08	048930	TEAMSTERS IND	LU	00317	02-01-89
01B-07004-08	048659	ELECTRICAL WORKERS IUE AFL-CIO	LU	00308	11-05-87
01B-07005-08	005749	MACHINISTS AFL-CIO	LG	01791	02-04-88
01B-07007-08	000289	STATE COUNTY & MUNI EMPLS AFL-CIO	NHQ		05-24-88
01B-07029-08	508950	TRANSPORTATION UNION IND	LU	01472	11-13-87
01B-07040-08	051907	ELECTRICAL WORKERS IUE AFL-CIO	LU	00383	08-26-88
01B-07044-08	070944	PLANT PROTECTION EMPLOYEES IND	LU	00007	08-04-88
01B-07051-08	083467	LETTER CARRIERS, NATL ASN, AFL-CIO	SA		03-01-88
01B-07052-08	039042	TEAMSTERS IND	LU	00687	03-30-88
01B-07054-08	046151	TRANSIT UNION AFL-CIO	LDIV	01342	08-25-88
01B-07065-08	000265	COMMUNICATIONS WORKERS AFL-CIO	LU	01112	09-29-88
01B-07078-08	019856	STAGE & PICTURE OPERATORS AFL-CIO	LU	00025	05-23-89
01B-07079-08	040406	MARBLE & GRANITE AFL-CIO	LU	00059	03-31-88
01B-07106-08	511338	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00234	09-26-88
01B-07110-08	516470	MOLDERS AFL-CIO	LU	00037	06-16-88
01B-07128-08	026970	MACHINISTS AFL-CIO	DLG	00006	07-25-88
01B-07142-08	031796	STEELWORKERS AFL-CIO	LU	04-04680	08-31-88
01C-00001-08	512706	STEELWORKERS AFL-CIO	LU	01-08833	03-25-88
01C-00040-08	092081	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	00086	03-12-88
01C-00044-08	040065	PAINTERS AFL-CIO	LU	01339	11-02-87
01C-00049-08		STATE, COUNTY & MUNICIPAL EMPLS.	LOCAL	894	12-07-87

U S DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
CASES CLOSED DURING FY 1989 - PROGRAM 8

CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
01C-00051-08	036613	MACHINISTS AFL-CIO	LG	00700	05-31-89
01C-00054-08	027794	MACHINISTS AFL-CIO	LG	00743	04-06-89
01C-00060-08	033619	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00035	08-18-89
01C-00062-08		FIREFIGHTERS	LOCAL	1549	10-30-87
01C-00065-08	015059	HOTEL EMPL, RESTAURANT EMPL AFL-CIO	LU	00035	12-30-87
01C-00067-08	033798	PLUMBERS AFL-CIO	LU	00311	12-29-87
02A-10771-08	021515	STAGE & PICTURE OPERATORS AFL-CIO	LU	00193-B	12-31-87
02A-10851-08	513583	GRAPHIC ARTISTS GUILD INC			09-11-88
02A-10866-08	503120	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02567	10-14-87
02A-10891-08	019065	OFFICE & PROFESSIONAL EMPLS AFL-CIO	LU	00153	08-22-88
02A-10901-08	502184	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	01917	02-29-89
02A-10923-08	010770	MUSICIANS AFL-CIO	LU	00802	03-14-88
02A-10924-08	506560	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	02939	08-15-88
02B-07344-08	515460	MAINTENANCE OF WAY EMPLS AFL-CIO	LG	02905	10-15-87
02B-07356-08	516737	SOLIDARITY OF LABOR ORGANIZATION			06-27-89
02B-07401-08	007098	BRICKLAYERS AFL-CIO	LU	00019	11-04-87
02B-07403-08	009224	RUBBER WORKERS AFL-CIO	LU	00367	10-15-87
02B-07404-08	063745	GLASS POTTERY PLASTICS AFL-CIO	LU	00228	11-04-87
02B-07416-08	065152	ELECTRICAL WORKERS IUE AFL-CIO	LU	00178	10-21-87
02B-07420-08	010142	AUTO WORKERS AFL-CIO	LU	00731	12-29-87
02B-07423-08	004800	MOLDERS AFL-CIO	LU	00304	12-29-87
02B-07428-08	019471	OIL CHEMICAL ATOMIC WKRS AFL-CIO	LU	08-00490	10-21-87
02B-07430-08	003189	ENGINEERS, OPERATING, AFL-CIO	LU	00069	03-29-89
02B-07432-08		STATE COUNTY AND MUNICIPAL EMPLS	LOCAL	2221	03-29-89
02B-07434-08	002651	MARINE ENGINEERS AFL-CIO	D	00003	03-28-88
02B-07436-08	505979	FREEDMANS BAKERY ASN IND			12-31-87
02B-07437-08	016422	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00205-M	03-28-88
02B-07454-08	505312	AFL-CIO	DALU	03067	04-19-89
02B-07465-08	002718	TRANSIT UNION AFL-CIO	LDIV	00824	07-29-88
02B-07481-08	035592	LOCOMOTIVE ENGINEERS IND	DIV	00053	09-22-88
02B-07488-08	027729	BRICKLAYERS AFL-CIO	LU	00035	09-26-88
02B-07493-08	071237	PEGASUS PETROLEUM ASSOCIATION IND			09-22-88
02B-07496-08	511294	LABORERS AFL-CIO	LU	01412	08-05-89
03A-06799-08	030812	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00072	09-01-88
03A-08815-08	036712	CLOTHING & TEXTILE WORKERS AFL-CIO	JB		10-19-87
03A-08824-08	054163	STEELWORKERS AFL-CIO	LU	07-05014	07-11-89
03A-08897-08	514890	SHEET METAL WORKERS AFL-CIO	LU	00027	05-27-88
03A-08913-08	516727	MAJOR LEAGUE UMPIRES ASSOCIATION			01-15-89
03A-08964-08	036150	LONGSHOREMENS ASN AFL-CIO	LU	01694	01-29-88
03A-08932-08	033820	TEAMSTERS IND	LU	00107	01-28-89
03A-09007-08	047785	SUN OIL CO EMPLOYEES ASSOCIATION			02-22-88
03A-09016-08	000510	POSTAL WORKERS, AMERICAN, AFL-CIO	NHQ		10-13-87
03A-09025-08	022462	TEAMSTERS IND	LU	00676	11-13-87

REPORT DATE 05/12/89

U S DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
CASES CLOSED DURING FY 1988 - PROGRAM 5

CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
03A-09033-08	023351	LABORERS AFL-CIO	LU	00420	02-29-88
03A-09036-08	067637	TEXTILE WORKERS UTWA AFL-CIO	LU	00727	09-15-88
03A-09040-08	001946	GUARD WORKERS, PLANT, IND	LU	00510	01-15-88
03A-09045-08	024263	CLOTHING & TEXTILE WORKERS AFL-CIO	LU	00006-H	12-11-87
03A-09046-08	024232	CLOTHING & TEXTILE WORKERS AFL-CIO	LU	00045-H	12-11-87
03A-09060-08	502508	GOVERNMENT EMPLS NAGE SEIU AFL-CIO	LU	03-00035	12-07-87
03A-09061-08	502812	GOVERNMENT EMPLS NAGE SEIU AFL-CIO	LU	03-00076	11-27-87
03A-09070-08	036912	TEXTILE PROCESSORS IBT IND	LU	00010	06-28-88
03A-09102-08	060365	ELECTRICAL WORKERS IUE AFL-CIO	DC	00001	04-29-88
03A-09116-08	027743	LONGSHOREMENS ASN AFL-CIO	LU	01332	08-17-88
03A-09136-08	002244	TRANSPORTATION UNION IND	LU	00356	09-16-88
03A-09142-08	009507	STEELWORKERS AFL-CIO	LU	07-01626	09-28-88
03B-07818-08	000271	FOOD HANDLERS UNION NFIU	NHQ		12-22-87
03B-07961-08	065421	SOUTHERN LABOR UNION IND	LU	00223	11-06-87
03B-07979-08	053484	MINE WORKERS, UNITED, IND	LU	01302	02-22-88
03B-07988-08	065156	MINE WORKERS, UNITED, IND	LU	01525	05-20-88
03B-08004-08	005355	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	00710	12-08-87
03B-08041-08	515055	STEELWORKERS AFL-CIO	LU	23-08924	03-31-88
03B-08045-08	505256	MACHINISTS AFL-CIO	LG	02549	11-03-87
03B-08047-08	511212	METAL POLISHERS AFL-CIO	LU	00064	12-22-87
03B-08049-08	000337	POSTAL SECURITY POLICE IND	NHQ		11-13-87
03B-08069-08	046506	MINE WORKERS, UNITED, IND	LU	01160	08-24-88
03B-08070-08	516319	RETAIL WHOLESALE AFL-CIO	LU	18620	12-17-87
03B-08085-08	051311	MACHINISTS AFL-CIO	LG	01582	11-03-87
03B-08134-08	033447	BRICKLAYERS AFL-CIO	LU	00024	12-22-87
03B-08137-08	067018	AUTO WORKERS AFL-CIO	LU	01647	02-05-88
03B-08141-08	032521	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	00076	03-03-88
03B-08142-08	060741	ASBESTOS WORKERS AFL-CIO	LU	00023	12-29-87
03B-08145-08	020361	MINE WORKERS, UNITED, IND	LU	08190	08-16-88
03B-08177-08	096061	MINE WORKERS, UNITED, IND	LU	06330	09-29-88
03B-08237-08	506796	MINE WORKERS, UNITED, IND	LU	02059	09-15-88
04A-10921-08	003917	MOLDERS AFL-CIO	LU	00019	12-30-87
04A-10966-08	064539	STATE COUNTY & MUNI EMPLS AFL-CIO	DC	00020	06-30-88
04A-10972-08	505205	FURNITURE WORKERS AFL-CIO	LU	00075-A	10-29-87
04A-10982-08	021929	ASBESTOS WORKERS AFL-CIO	LU	00011	03-04-88
04A-10994-08	016960	LABORERS AFL-CIO	LU	00194	08-31-88
04A-11000-08	031979	AUTO WORKERS, WILMINGTON-ELKTON LU	LU	00940	10-30-87
04A-11009-08	502991	GOVERNMENT EMPLS NAGE SEIU AFL-CIO	LU	04-00011	11-16-87
04A-11015-08	036217	ELECTRICAL WORKERS IUE AFL-CIO	LU	00131	08-03-88
04A-11033-08	501659	FEDERAL EMPLOYEES, NATL FED, IND	LU	01642	02-22-88
04A-11036-08	503695	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	03231	04-06-88
04A-11039-08	035491	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	00556	07-26-88
04A-11047-08	056573	RUBBER WORKERS AFL-CIO	LU	00649	03-08-88
04A-11049-08	013542	STEELWORKERS AFL-CIO	LU	35-14312	11-16-87
04A-11054-08	504579	FIELD SERVICE EMPLOYEES ASSOCIATION			09-04-88

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CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
04A-11056-08	062123	ALUMINUM BRICK GLASS WKRS AFL-CIO	LU	00421-G	10-19-87
04A-11059-08	001330	PAINTERS AFL-CIO	LU	01018	04-29-88
04A-11061-08	083320	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	03939	06-30-88
04A-11133-08	000080	MARBLE & GRANITE AFL-CIO	NHQ		09-21-88
04B-08315-08	010356	LOCOMOTIVE ENGINEERS IND	DIV	00720	03-30-89
04B-08335-08	516597	SHEET METAL WORKERS AFL-CIO	LU	00069	11-09-87
04B-08344-08	501395	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	03136	03-11-88
04B-08376-08	514717	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	00605	04-08-88
04B-08404-08	071463	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00245	12-21-87
04B-08411-08	035036	TEAMSTERS IND	LU	01196	04-30-88
04B-08415-08	512976	ALUMINUM BRICK GLASS WKRS AFL-CIO	LU	00234-A	01-19-88
04B-08441-08	027479	RAILWAY AIRLINE CLERKS AFL-CIO	LG	00559	01-19-89
04B-08451-08	038585	COMMUNICATIONS WORKERS AFL-CIO	LU	03601	10-05-87
04B-08502-08	022830	TEAMSTERS AFL-CIO	LU	00327	09-30-89
04B-08512-08	502855	GOVERNMENT EMPLS NAGE SEIU AFL-CIO	LU	05-00066	09-27-89
04C-02754-08	516417	UNION LOCAL INDEPENDENT Y RAMAS			09-30-88
04C-02783-08		TRABAJADORES DE LA CROWN CORK,			05-31-89
04C-02788-08	000223	TRABAJADORES DE PR, LIBRE FLT, IND	NHQ		06-30-88
04C-02800-08	504740	HERMANDAD GENERAL DE TRABAJADORES			09-30-88
04C-02802-08	038545	LONGSHOREMENS ASN AFL-CIO	LU	01575	02-29-88
04C-02812-08	513270	TRABAJADORES DE SERVICIOS LEGALES			06-22-88
05A-12067-08	505251	POST OFFICE MAIL HANDLERS LIUNA	LU	00317	10-09-87
05A-12157-08	011199	LOCOMOTIVE ENGINEERS IND	DIV	00305	04-22-89
05A-12246-08	500037	AGRICULTURE EMPLOYEES IND	NHQ		10-29-87
05A-12248-08	517691	RUBBER WORKERS AFL-CIO	LU	01070	03-02-89
05A-12254-08	001544	PAINTERS AFL-CIO	LU	00030	03-25-89
05A-12269-08	005736	RAILWAY CARMEN AFL-CIO	LG	00043	12-31-87
05A-12271-08	501291	FEDERAL EMPLOYEES, NATL FED, IND	LU	01639	12-21-87
05A-12286-08	055022	MACHINISTS AFL-CIO	LG	01141	02-22-89
05A-12297-08	514125	STEELWORKERS AFL-CIO	LU	35-09072	01-26-89
05A-12314-08	065374	STEELWORKERS AFL-CIO	LU	35-07189	09-30-88
05A-12319-08	505251	CLOTHING & TEXTILE WORKERS AFL-CIO	LU	01126-C	06-22-88
05A-12342-08	505094	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00641-S	11-30-87
05A-12360-08	002491	PAINTERS AFL-CIO	LU	00349	12-09-87
05A-12379-08	044217	GLASS POTTERY PLASTICS AFL-CIO	LU	00035	05-06-88
05A-12391-08	067814	STEELWORKERS AFL-CIO	LU	35-07740	09-14-89
05A-12403-08	017761	STAGE & PICTURE OPERATORS AFL-CIO	LU	00041	11-30-87
05A-12409-08	064722	BOILERMAKERS AFL-CIO	LG	00475-D	03-31-89
05A-12410-08	014359	BOILERMAKERS AFL-CIO	LG	00043-D	12-15-87
05A-12411-08	513397	BOILERMAKERS AFL-CIO	LG	00516-D	03-29-89
05A-12412-08	037057	BOILERMAKERS AFL-CIO	LG	00044-D	03-23-89
05A-12413-08	040134	BOILERMAKERS AFL-CIO	LG	00216-D	05-20-88
05A-12414-08	013157	BOILERMAKERS AFL-CIO	LG	00233-D	11-10-87

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CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
05A-12431-08	506750	MINE WORKERS, UNITED, IND	LU	01928	06-20-89
05A-12442-08	069749	ELECTRICAL WORKERS IBEW AFL-CIO	LU	02196	03-29-89
05A-12443-08	069154	GLASS POTTERY PLASTICS AFL-CIO	LU	00377-A	09-30-89
05A-12477-08	014939	ENGINEERS, OPERATING, AFL-CIO	LU	00926	05-19-89
05A-12487-08	045538	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00443	05-31-89
05A-12509-08	067581	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	01425	09-29-88
05B-06021-08	035656	CARPENTERS AFL-CIO	LU	01379	03-22-89
05B-06023-08	034133	CARPENTERS AFL-CIO	LU	00993	12-23-87
05B-06031-08	010634	PLUMBERS AFL-CIO	LU	00519	05-29-88
05B-06032-08	070939	PAINTERS AFL-CIO	LU	01942	04-18-89
05B-06039-08	046745	TRANSPORT WORKERS AFL-CIO	LU	00500	07-25-88
05C-00033-08	501122	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02498	04-20-89
05C-00061-08	070603	TEAMSTERS IND	LU	00930	10-15-87
05C-00067-08	040358	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00177	12-03-87
05C-00075-08	068538	MACHINISTS AFL-CIO	LG	02445	05-05-89
05C-00080-08	005101	STAGE & PICTURE OPERATORS AFL-CIO	LU	00643	09-27-88
05C-00093-08	024472	LABORERS AFL-CIO	LU	00277	12-02-87
05C-00097-08	051405	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	00720	10-07-87
05C-00113-08	029729	MACHINISTS AFL-CIO	LG	00731	04-04-89
06A-13172-08	000189	COMMUNICATIONS WORKERS AFL-CIO	NHQ		11-13-87
06A-13505-08	002066	TEAMSTERS IND	LU	00654	04-18-89
06A-13507-08	037838	BOILERMAKERS AFL-CIO	LG	01492	10-05-87
06A-13524-08	022355	NATIONAL FED OF INDEPENDENT UNIONS	LU	00048	03-15-89
06A-13592-08	053655	GRAPHIC COMMUNICATIONS AFL-CIO	LU	03006-S	12-18-87
06A-13621-08	007128	LABORERS AFL-CIO	LU	00935	09-29-89
06A-13625-08	000149	AUTO WORKERS AFL-CIO	NHQ		03-17-89
06A-13637-08	070619	UTILITY WORKERS AFL-CIO	LU	00452	09-02-89
06A-13638-08	052529	CARPENTERS AFL-CIO	LU	03006	01-06-88
06A-13639-08	010529	RUBBER WORKERS AFL-CIO	LU	00007	08-27-89
06A-13642-08	022532	GLASS WORKERS, FLINT, AFL-CIO	LU	00575	10-29-87
06A-13651-08	031041	BRICKLAYERS AFL-CIO	LU	00042	02-26-89
06A-13655-08	000314	TRANSPORTATION UNION IND	NHQ		01-26-89
06A-13658-08	037611	RUBBER WORKERS AFL-CIO	LU	00279	07-14-89
06A-13669-08	089072	LETTER CARRIERS, RURAL, IND	SA		09-19-89
06A-13687-08	013740	STEELWORKERS AFL-CIO	LU	27-04781	08-31-89
06A-13705-08	016339	TEAMSTERS AFL-CIO	LU	00416	09-13-89
06A-13721-08	018421	AUTO WORKERS AFL-CIO	LU	00030	09-10-89
[illegible]00156-08	039797	MARBLE & GRANITE AFL-CIO	LU	00089	01-27-89
0[illegible]00157-08	024277	MARBLE & GRANITE AFL-CIO	LU	00093	01-27-89
06[illegible]-00312-08	025911	CARPENTERS AFL-CIO	LU	00627	05-30-89
06[illegible]-00531-08	039323	ALUMINUM BRICK GLASS WKRS AFL-CIO	LU	00103-A	02-24-89

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068-00355-08	021587	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00638	09-26-88
068-00359-08	027943	TRANSPORTATION UNION IND	LU	00573	02-04-88
068-00391-08	063025	MACHINISTS AFL-CIO	LG	00619	02-04-88
068-00394-08	513939	ELECTRICAL WORKERS IBEW AFL-CIO	LU	02100	09-23-88
068-00398-08	513242	ELECTRICAL WORKERS IUE AFL-CIO	LU	00730	12-31-87
068-00417-08	024948	CARPENTERS AFL-CIO	DC		06-30-88
068-00419-08	066115	GRAIN MILLERS AFL-CIO	LU	00353	09-29-88
068-00424-08	518066	COMMUNICATIONS WORKERS AFL-CIO	LU	04310	09-12-88
068-00436-08	066390	RUBBER WORKERS AFL-CIO	LU	00853	09-22-88
068-00437-08	062652	GUARDS IND	LU	00071	05-24-88
068-00481-08	003616	PAINTERS AFL-CIO	LU	01529	08-29-88
068-00484-08	063007	TEAMSTERS AFL-CIO	LU	00836	09-26-88
068-00485-08	068749	AUTO WORKERS AFL-CIO	C		09-21-88
07A-20545-08	019948	MINE WORKERS, UNITED, IND	LU	07455	03-28-88
07A-20674-08	063116	ELECTRICAL WORKERS IBEW AFL-CIO	LU	02186	10-21-87
07A-20675-08	044656	FIREMEN & OILERS AFL-CIO	LU	00693	09-15-88
07A-20681-08	067633	RAILWAY AIRLINE CLERKS AFL-CIO	SBA	00155	09-21-88
07A-20685-08	035381	RAILROAD SIGNALMEN AFL-CIO	LLG	00097	11-09-87
07A-20704-08	015947	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00507*M	05-09-88
07A-20714-08	006372	FOOD & COMMERCIAL WKRS AFL-CIO	JB	00028-A	03-08-88
07A-20729-08	098443	ELECTRICAL WORKERS IBEW AFL-CIO	LU	01220	04-08-88
07A-20730-08	003178	BOILERMAKERS AFL-CIO	LG	01239	03-29-88
07A-20731-08	071506	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	07011	03-09-88
07A-20732-08	013870	PAINTERS AFL-CIO	LU	00376	03-31-88
07A-20738-08	019761	AUTO WORKERS AFL-CIO	LU	00390	11-23-87
07A-20745-08	028432	STEELWORKERS AFL-CIO	LU	31-01010	05-05-88
07A-20790-08	022439	CARPENTERS AFL-CIO	DC		12-15-87
07A-20793-08	011302	COMMUNICATIONS WORKERS AFL-CIO	LU	04250	12-01-87
07A-20820-08	038957	MACHINISTS AFL-CIO	LG	01202	09-30-88
07A-20825-08	063525	INDUSTRIAL WORKERS, ALLIED, AFL-CIO	LU	00452	09-28-88
07A-20830-08	000037	INDUSTRIAL WORKERS, ALLIED, AFL-CIO	NHQ		09-30-88
07A-20834-08	009333	INDUSTRIAL WORKERS, ALLIED, AFL-CIO	LU	00778	06-27-88
07A-20845-08	034073	BOILERMAKERS AFL-CIO	LG	01248	05-05-88
07A-20847-08	009121	TRANSPORTATION UNION IND	LU	00195	10-20-87
07A-20867-08	503506	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	01765	06-29-88
07A-20869-08	037623	MACHINISTS AFL-CIO	LG	00851	09-23-88
07A-20872-08	057512	CHEMICAL WORKERS REPRESENTATIVES			12-07-87
07A-20874-08	028945	TEAMSTERS IND	LU	00142	02-22-88
07A-20875-08	026737	PAINTERS AFL-CIO	LU	00147	12-11-87
07A-20890-08	022466	PAINTERS AFL-CIO	LU	01164	03-31-88
07A-20897-08	007336	PRECISION ELECTRONICS INDUSTRIAL			07-07-88
07A-20909-08	024139	LABORERS AFL-CIO	LU	00231	05-03-88
07A-20918-08	015867	MACHINISTS AFL-CIO	LG	01096	07-29-88
07A-20924-08	015860	STAGE & PICTURE OPERATORS AFL-CIO	LU	00476	09-01-88
07B-09606-08	507293	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00295	11-01-87

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CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
07B-09630-08	066886	COMMUNICATIONS WORKERS AFL-CIO	LU	04001	07-12-88
07B-09650-08	016740	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00017	03-11-88
07B-09677-08	012574	ASBESTOS WORKERS AFL-CIO	LU	00025	12-11-87
07B-09720-08	023946	AUTO WORKERS AFL-CIO	LU	00551	10-15-87
07B-09725-08	048894	PAINTERS AFL-CIO	LU	01396	11-24-87
07B-09728-08	020928	INDUSTRIAL WORKERS, ALLIED, AFL-CIO	LU	00860	11-12-87
07B-09759-08	503728	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	03236	06-21-88
07B-09783-08	039071	AUTO WORKERS AFL-CIO	LU	00174	03-10-88
07B-09784-08	027466	CARPENTERS AFL-CIO	DC		06-23-88
07B-09797-08	019535	TEAMSTERS IND	LU	00007	09-26-88
07B-09805-08	504926	INDUSTRIAL & MISC WKRS OF AMERICA			09-26-88
07B-09826-08	080839	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	00001	09-28-88
07B-09834-08	006614	RETAIL WHOLESALE AFL-CIO	LU	00705	09-27-88
07C-06477-08	042963	CARPENTERS AFL-CIO	LU	00307	08-04-88
07C-06478-08	024608	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00714	12-22-87
07C-06481-08	022903	PLASTERERS & CEMENT MASONS AFL-CIO	LU	00053	01-28-88
07C-06493-08	015767	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00009	02-19-88
07C-06502-08	041804	BRICKLAYERS AFL-CIO	LU	00003	03-31-88
07C-06503-08	054512	PAPER MILL WORKERS UNION IND			04-22-88
08A-08157-08	512997	COMMUNICATIONS WORKERS AFL-CIO	LU	06333	10-14-87
08A-08237-08	035983	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00639-S	08-10-88
08A-08258-08	081626	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	00366	10-16-87
08A-08259-08	015101	FIREMEN & OILERS AFL-CIO	LU	00642	12-31-87
08A-08263-08	010562	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00271	09-06-88
08A-08266-08	046776	MOLDERS AFL-CIO	LU	00204	10-23-87
08A-08269-08	056635	PACKERS & DRIVERS ASN			04-07-88
08A-08287-08	027403	CLOTHING & TEXTILE WORKERS AFL-CIO	LU	00064-H	08-02-88
08A-08291-08	018201	TRANSPORTATION UNION IND	LU	00746	04-12-88
08A-08292-08	512640	CARPENTERS AFL-CIO	LU	00400	02-29-88
08A-08293-08	064472	RUBBER WORKERS AFL-CIO	LU	00912	02-29-88
08A-08323-08	003124	COMMUNICATIONS WORKERS AFL-CIO	LU	07470	09-30-88
08A-08342-08	069623	COMMUNICATIONS WORKERS AFL-CIO	C		07-29-88
08A-08348-08	040277	STAGE & PICTURE OPERATORS AFL-CIO	LU	00343	03-31-88
08A-08351-08	004384	ELECTRICAL WORKERS IBEW AFL-CIO	LU	01613	05-31-88
08A-08357-08	027403	CLOTHING & TEXTILE WORKERS AFL-CIO	LU	00064-H	07-20-88
08A-08365-08	026045	UPHOLSTERERS, USWA, AFL-CIO	LU	00327	07-19-88
08A-08377-08	071914	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00735	09-30-88
08B-08245-08	000509	LETTER CARRIERS, NATL ASN, AFL-CIO	NHQ		07-15-88
08B-08340-08	512931	MINE WORKERS, UNITED, IND	LU	02309	05-09-88
08B-08360-08	033708	PLASTERERS & CEMENT MASONS AFL-CIO	LU	00908	03-31-89
08B-08417-08	514732	RAILWAY CARMEN AFL-CIO	LG	00116	03-21-89
08B-08430-08	037012	IRON WORKERS AFL-CIO	LU	00067	04-13-89
08B-08449-08	061120	SEAFARERS AFL-CIO	LU	00005	09-20-88

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CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
08B-08453-08	517391	CARPENTERS AFL-CIO	LU	02121	12-07-87
08B-08465-08	039745	FIREMEN & OILERS AFL-CIO	LU	00903	04-14-89
08B-08509-08	515898	AUTO WORKERS AFL-CIO	LU	02250	02-12-88
08B-08514-08	003410	MINE WORKERS, UNITED, IND	LU	09111	05-31-88
08B-08517-08		PROFESSIONAL PAINTERS			07-15-88
08B-08520-08	015229	LABORERS AFL-CIO	LU	00084	09-13-89
08B-08526-08	515324	TEXTILE WORKERS UTWA AFL-CIO	LU	00677	05-02-89
08B-08527-08	501105	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	00900	05-19-88
08B-08530-08	069685	ELECTRICAL WORKERS IUE AFL-CIO	LU	01114	04-28-89
08B-08533-08	020470	ELECTRICAL WORKERS IUE AFL-CIO	LU	00829	05-16-89
08B-08534-08	025006	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00145-I	07-28-89
08C-05367-08	511941	FEDERAL EMPLOYEES, NATL FED, IND	LU	00378	03-16-88
08C-05376-08	082637	LETTER CARRIERS, NATL ASN, AFL-CIO	BR	00204	12-02-87
08C-05384-08	022285	TRANSPORTATION UNION IND	LU	01280	10-28-87
08C-05393-08	502202	MACHINISTS AFL-CIO	LG	02261	01-07-89
08C-05414-08	065120	GUARD WORKERS, PLANT, IND	LU	00265	12-23-87
08C-05424-08	037632	PLASTERERS & CEMENT MASONS AFL-CIO	LU	00254	06-29-88
08C-05430-08	502043	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	01345	12-10-87
08C-05434-08	015570	OFFICE & PROFESSIONAL EMPLS AFL-CIO	LU	00005	02-16-88
08C-05435-08	000057	OIL CHEMICAL ATOMIC WKRS AFL-CIO	NHQ		09-30-89
08C-05436-08	060868	RUBBER WORKERS AFL-CIO	LU	00724	06-30-88
08C-05440-08	041289	PAINTERS AFL-CIO	LU	00077	09-30-89
08C-05441-08		POSTAL WORKERS, AMERICAN, AFL-CIO	LOCAL	434	07-15-88
08C-05442-08	004075	MACHINISTS AFL-CIO	LG	00794	06-03-89
08C-05445-08	026280	CARPENTERS AFL-CIO	LU	00055	09-30-88
08C-05449-08	044186	PAINTERS AFL-CIO	LU	00419	08-08-88
08C-05459-08	006941	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	00158	09-30-89
09A-12111-08	023071	LABORERS AFL-CIO	LU	00524	01-19-88
09A-12122-08	011211	TRANSPORTATION UNION AFL-CIO	LU	00009	04-18-89
09A-12159-08	506353	POSTAL WORKERS, AMERICAN, AFL-CIO	LU		04-18-89
09A-12191-08	054885	PHILLIPS PIPE LINE CO EMPLOYEES FED			01-29-89
09A-12258-08		9TH DISTRICT TULSA AREA HUD	LOCAL	3950	03-10-89
09A-12277-08	042951	CARPENTERS AFL-CIO	LU	02713	10-07-87
09A-12279-08	024937	STEELWORKERS AFL-CIO	LU	37-13586	05-04-89
09A-12291-08	065359	BOILERMAKERS AFL-CIO	LG	00476-D	03-15-88
09A-12302-08	040470	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00368-R	03-23-88
09A-12307-08	501476	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02109	10-29-87
09A-12309-08	000369	MOTOR EXPRESSMEN'S UNION NFIU	NHQ		10-27-87
09A-12313-08	036456	PLASTERERS & CEMENT MASONS AFL-CIO	LU	00809	06-21-89
09A-12322-08	035293	PLUMBERS AFL-CIO	LU	00100	03-15-88
09A-12353-08		FIRE FIGHTERS ASSOCIATION	LOCAL	478	03-31-88
09A-12358-08	030901	ELECTRICAL WORKERS IBEW AFL-CIO	LU	00700	07-28-89
09A-12364-08	517454	CARPENTERS AFL-CIO	LU	00429	04-18-88
09B-05920-08	516031	FEDERAL EMPLOYEES, NATL FED, IND	LU	01953	03-11-88

U S DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
CASES CLOSED DURING FY 1988 - PROGRAM 5

CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG. NUMBER	CC/LAC DATE
09B-05937-08	014544	LABORERS AFL-CIO	LU	00689	11-30-87
09B-05939-08	513292	LONGSHOREMENS ASN AFL-CIO	LU	03000	06-29-88
09B-05981-08	506644	CARPENTERS AFL-CIO	LU	02066	06-12-89
09B-05990-08	058628	WOODWORKERS AFL-CIO	LU	05-00293	10-06-87
09B-05993-08	019738	RAILWAY CARMEN AFL-CIO	LG	00244	02-18-88
09B-05996-08	070613	ELECTRICAL WORKERS IBEW AFL-CIO	LU	02164	06-10-88
09B-05997-08	515905	AUTO WORKERS AFL-CIO	LU	02222	02-29-88
09B-06002-08	514834	NATIONAL STAFF ORGANIZATION IND			05-23-83
09B-06003-08	006239	MAINTENANCE OF WAY EMPLS AFL-CIO	SLG	01404	06-27-88
09B-06004-06	071962	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	02103	06-29-88
09B-06005-08	066291	PAPERWORKERS UNION, UNITED, AFL-CIO	LU	01076	07-26-88
09B-06010-08	505226	FEDERAL EMPLOYEES, NATL FED, IND	LU	00513	01-08-89
09B-06012-08	502358	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02053	01-29-89
09B-06017-08	067378	WOODWORKERS AFL-CIO	LU	05-00376	03-31-88
09B-06030-08	033318	PAINTERS AFL-CIO	LU	01244	01-09-89
09B-06031-08	026800	EXXON EMPLOYEES FEDERATION			08-22-89
09B-06037-06	506436	STEELWORKERS AFL-CIO	LU	36-06359	06-16-88
09B-06040-08	071419	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00083	03-28-89
09B-06043-08	059627	STEELWORKERS AFL-CIO	LU	36-06296	08-19-89
09B-06051-08	509563	FEDERAL EMPLOYEES, NATL FED, IND	LU	01906	03-28-88
09B-06069-08	055673	GLASS POTTERY PLASTICS AFL-CIO	LU	00157	07-19-89
09B-06073-05	024099	BLDG & CONSTRN TRADES DEPT AFL-CIO	BCTC		09-30-89
09C-00106-08	019854	LABORERS AFL-CIO	LU	00018	03-31-88
09C-00147-08	041238	ENGINEERS, OPERATING, AFL-CIO	LU	00450	03-10-88
09C-00152-08	005365	OIL CHEMICAL ATOMIC WKRS AFL-CIO	LU	04-00316	10-30-87
09C-00154-08	067957	STEELWORKERS AFL-CIO	LU	37-07756	03-15-89
09C-00162-08	000014	SEAFARERS AFL-CIO	NHQ		09-30-89
09C-00172-08	012007	TRANSIT UNION AFL-CIO	LDIV	01091	06-29-89
10A-07671-08	037333	TEAMSTERS IND	LU	00748	02-09-89
10A-07905-08	514461	FEDERAL LAW ENFORCEMENT ASSOCIATION			12-11-87
10A-07929-08	039644	PAINTERS AFL-CIO	DC	00005	05-20-88
10A-07935-08	069727	LABORERS AFL-CIO	LU	00297	04-29-89
10A-07956-08	035521	FIREMEN & OILERS AFL-CIO	LU	00782	05-20-88
10A-07997-08	001013	LABORERS AFL-CIO	LU	00372	12-23-87
10A-08001-08	039316	LABORERS AFL-CIO	LU	00073	07-12-88
10A-08007-08	046335	TEAMSTERS IND	LU	00297	03-31-88
10A-08018-06	039218	LABORERS AFL-CIO	LU	00306	12-30-87
10A-08030-08	043738	CARPENTERS AFL-CIO	LU	03184	11-27-87
10A-08031-06	068989	RAILROAD SIGNALMEN AFL-CIO	LLG	00170	09-02-88
10A-08032-06		GOVERNMENT EMPLOYEES, AFGE	COUNC	252	12-24-87
10A-08037-06	072239	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	00092	03-31-89
1 , [illegible]8071-08	517154	INDEPENDENT WORKERS UNION			05-29-88
10B-06354-08	024086	BOILERMAKERS AFL-CIO	LG	00106	10-05-87

U S DEPARTMENT OF LABOR
OFFICE OF LABOR-MANAGEMENT STANDARDS
CASES CLOSED DURING FY 1988 - PROGRAM 5

CASE NUMBER	LM FILE NUMBER	SUBJECT/ORGANIZATION	DESIG NAME	DESIG NUMBER	CC/LAC DATE
10B-06408-08	039131	ALUMINUM BRICK GLASS WKRS AFL-CIO	LU	00458-B	10-02-87
10B-06445-08	501880	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	02157	11-18-87
10B-06446-08	001854	TEAMSTERS IND	LU	00058	11-30-87
10B-06480-08	513896	FOOD & COMMERCIAL WKRS AFL-CIO	LU	00044	10-26-87
10B-06489-08	034546	CARPENTERS AFL-CIO	LU	01849	05-08-88
10B-06511-08	045654	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00327-C	09-07-88
10B-06519-08	013671	ASBESTOS WORKERS AFL-CIO	LU	00097	09-27-88
10B-06520-08	013671	ASBESTOS WORKERS AFL-CIO	LU	00097	06-06-88
10B-06526-08	044828	LONGSHOREMEN & WAREHOUSEMEN IND	LU	00061	09-15-88
10B-06536-08	040214	OIL CHEMICAL ATOMIC WKRS AFL-CIO	LU	02-00632	12-07-87
10B-06535-08	035223	COMMUNICATIONS WORKERS AFL-CIO	LU	07810	10-09-87
10B-06544-08	514867	LABORERS AFL-CIO	LU	00127	06-28-88
10B-06553-08	048696	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00049-M	10-09-87
10B-06563-08	013671	ASBESTOS WORKERS AFL-CIO	LU	00097	03-31-88
10B-06567-08	044673	TRANSPORTATION UNION IND	LU	01058	03-08-88
10C-10523-08	516458	UNITED TRANSPORTATION UNION	LU	00758	05-04-88
10C-10607-08	046054	PLUMBERS AFL-CIO	LU	00250	03-02-88
10C-10620-08	040951	CARPENTERS AFL-CIO	LU	02375	08-08-88
10C-10679-08	032912	DISTILLERY WORKERS AFL-CIO	LU	00151	06-13-88
10C-10684-08	072287	POSTAL WORKERS, AMERICAN, AFL-CIO	LU	03937	06-14-88
10C-10698-08	043456	INDEPENDENT WKRS OF NORTH AMERICA	LG	00052-D	08-12-88
10C-10699-08	009046	INDEPENDENT WKRS OF NORTH AMERICA	LG	00192-D	08-12-88
10C-10700-08	071169	INDEPENDENT WKRS OF NORTH AMERICA	LG	00405-D	12-24-87
10C-10701-08	018946	IND WORKERS OF NORTH AMERICA	LG	00296-D	12-24-87
10C-10704-08	511674	GOVERNMENT EMPLOYEES AFGE AFL-CIO	LU	03723	05-10-88
10C-10706-08	516063	GRAPHIC COMMUNICATIONS AFL-CIO	LU	00404-M	02-22-88
10C-10711-08	026313	BROADCAST EMPLOYEES AFL-CIO	LU	00053	08-22-88
10D-01227-08	022943	CARPENTERS AFL-CIO	LU	00745	11-30-87
10D-01245-08	038990	NEWSPAPER GUILD AFL-CIO	LU	00117	02-25-88
10D-01299-08	025992	BRICKLAYERS AFL-CIO	LU	00001	05-09-88

NUMBER OF RECORDS SELECTED FOR THE REPORT = 422

TESTIMONY OF RAYMOND MARIA

DEPUTY INSPECTOR GENERAL, U.S. DEPARTMENT OF LABOR

BEFORE THE U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

APRIL 12, 1989

Mr. Chairman and Members of the Subcommittee, it is a distinct privilege for me to appear before this Subcommittee as a representative of the Office of Inspector General (OIG) as this Subcommittee examines the Government's use of the civil provisions of the Racketeer Influenced Corrupt Organizations (RICO) statute in combatting labor corruption and organized criminal activity. This invitation to comment on such an important enforcement mechanism is a compelling testament to the demonstrated record of accomplishment and the professional standing which OIG and its Office of Labor Racketeering (OLR) enjoy in the law enforcement community.

This month marks eleven years since the Permanent Subcommittee on Investigations highlighted in public hearings the scope of labor racketeering activity by the organized criminal element, and the Department of Labor's lack of enthusiasm for its criminal enforcement responsibilities in this area.

At this Subcommittee's insistence that the Department of Labor establish and nurture a viable labor racketeering enforcement capability, then Secretary of Labor Marshall established a separate office in April, 1978 that for the first time was staffed with full-time federal criminal investigators. Shortly thereafter, in November, 1978, Congress employed the Inspector General Act to transfer the entire labor racketeering enforcement function to the newly-created and independent Inspector General and the Office of Labor Racketeering.

This action assured that the Department of Labor would have one specific group of Special Agents with labor and financial investigative backgrounds who would focus exclusively on racketeering activity in labor intensive industries. The creation of an independent office to deal with labor racketeering further assured a vigorous, objective enforcement strategy, one whose integrity would no longer be compromised by constituent pressures.

OLR's mission is to identify and reduce corruption and organized criminal activity in employee benefit plans, labor-management relations, and internal union affairs. This mission is pursued through an enforcement program which is structured along the lines of industry and has three basic objectives:

- the conviction of both management and union officials who violate laws governing union and employee benefit plans and labor-management relations;
- the prompt disqualification from office of those convicted of enumerated labor racketeering violations;
- the establishment of a predicate for the civil recovery of funds siphoned from employee benefit plans and union general treasuries.

Using this program since its establishment in 1978, OLR has been responsible for the conviction of 692 individuals who have in some way been involved in the broad area of criminal activity known as labor racketeering.

Accordingly, a little more than a decade after this Subcommittee sharply criticized the Department for a virtual vacuum in criminal enforcement, the Department's OIG can appear before you and boast of a competent, credible labor racketeering enforcement presence -- one that can testify authoritatively before you on critical law enforcement issues.

OLR has acquired substantial experience in employing the criminal provisions of the RICO statute. Among some of the noteworthy convictions arising from criminal RICO investigations which OLR conducted individually or jointly are:

- Daniel Cunningham, president of Allied Security Guards and Special Police, for RICO violations encompassing bribery and embezzlement of union and pension funds (1980);
- Eugene Boffa and Frank Sheeran, IBT Local 323, Wilmington, Delaware, and four other individuals, for RICO

violations encompassing participation in a labor leasing scheme, mail fraud, and making prohibited payments under the Taft-Hartley Act (1981);

o Carmine Romano, United Seafood Workers Local 359, and forty three other individuals, for RICO violations encompassing receipt of illegal payments, embezzlement from employee benefit plans, and extortion ("Fulton Fish Market" case, 1982);

o Charles Collins, former administrator of Michigan Conference of Teamsters, and three other individuals, including Richard Fitzsimmons, son of former IBT president Frank Fitzsimmons, for RICO violations encompassing conspriacy and accepting kickbacks (1987);

o Anthony Rosetti, secretary-treasurer of IBT Local 191, and fourteen other individuals, for RICO violations encompassing embezzlement from a union benefit plan (1987);

o David Friedland, former counsel to IBT Local 701 Pension Plan, and seven other individuals, including the plan's trustees, legal advisor, and service provider, for RICO violations encompassing mail fraud, wire fraud, and ERISA-related false statements (1988);

o Harold Friedman, IBT vice president, and Anthony Hughes, an IBT official in Cleveland, for RICO violations encompassing embezzlement of union funds through the use of "ghost employees" (1989). (Jackie Presser, former IBT president, was also indicted but died prior to trial.)

Despite these successful criminal investigations and prosecutions, we have learned that in some instances corruption is so pervasive and ingrained in a particular union that an approach based simply on the criminal convictions of individuals has minimal effect in actually reducing the level of racketeering activity. Where a culture of corruption has become the norm, neither arrest and conviction of individuals by the government nor internal union efforts at reform are capable of removing racketeering elements from control.

Arguments to the effect that union officials found guilty of crimes should be "thrown in jail" but unions should be left alone to determine their own leadership ignore the fact that criminal control of a union effectively ends any trace of union democracy. To that end, OLR and the Department of Justice have, on several occasions, instituted civil RICO investigations against corrupt labor organizations.

To date, OLR has been directly involved in providing investigative support to the Department of Justice in three civil RICO proceedings: (1) the trusteeship imposed on Local 560 International Brotherhood of Teamsters, Union City, New Jersey, (2) the decreeship imposed on Local 30/30B Roofers Union, Philadelphia, Pennsylvania, and (3) the recently settled suit brought against the Executive Board of the International Brotherhood of Teamsters and members of organized crime families. In the Local 560 and Roofers cases, OLR played a significant role in gathering evidence for the RICO complaints and took the lead in providing investigative support thereafter. In the IBT case, OLR's future role under the settlement has yet to be defined.

Local 560 IBT

OLR was the primary or lead investigative agency in the first case in which civil RICO was used in the labor union arena. An unparalleled suit was filed by the Department of Justice in

1982 which sought injunctive relief against numerous defendants associated with IBT Local 560 and asked the District Court to impose a trusteeship on the Local in order to restrain and prevent future racketeering violations and to restore democracy to the Local.

The suit was based on allegations of a twenty-five year history of racketeering activity utilizing and victimizing this local. Prior investigations of this union had revealed a pattern of racketeering activity including sweetheart contracts, extortion of employers, intimidation of union members by violence (including murder), and theft of union and benefit plan funds. Following the murder of two dissident union members in the early 1960's, there was no internal opposition to the racketeers who ran Local 560. Individual union officers, when convicted of criminal acts, were simply replaced with others from among their criminal associates.

Once this suit had been filed and the judgment of the District Court had been upheld by the appellate courts, the court-appointed trustee asked OLR to provide support in his difficult role. OLR reviewed numerous incidents and opened both civil and criminal cases based on information supplied by the trustee. As a result of these investigations, on September 14, 1988, U.S. District Court Judge Dickinson R. Debevoise held that the Genovese Crime Family had continued to maintain control over

Local 560 despite the remedial action undertaken by U.S. District Court Judge Harold Ackerman in 1984. Judge Debevoise enjoined both Michael Sciarra, the former president of the Local, and Joseph Sheridan, a former union official, from running for election to union office. Additionally, Stanley Jaranko, a former Local 560 trustee and business agent, signed a consent judgment which prohibited him from participating in the affairs of any labor organization or employee benefit plan.

On December 6, 1988, a secret ballot election was held by the members of Local 560. Michael Sciarra's brother, Daniel, was elected president of the Local and a slate of officers generally perceived to be affiliated with the former regime were selected. Some consider this as a disappointing outcome for the Government. However, I believe that it is much too soon to tell what the long range effect of the Government's efforts on behalf of Local 560's members will be. If we maintain vigilance over this local and do not allow the criminal activities of the past to become commonplace again, Local 560 may well be a significant success in cleaning up one of the most corrupt unions in the country. We should fully recognize that because of the Government's actions viable opposition slates have appeared within Local 560 and have run for office, which is the first overt opposition to mob candidates in over twenty years.

Local 30/30B Roofers Union

This local, located in Philadelphia, Pennsylvania, has had a lengthy history of conducting its business through stone age violence. Their customary organizational tactics routinely included the gun, bomb, and baseball bat. There had not been a contested election in the local during the past twenty years. The union used threats and violence against roofing contractors to extort agreements and used arson and violence to drive out of business any contractor who refused to submit to union control. Only concerted efforts by both the state and the federal government have begun to lessen this stronghold. First, state and federal prosecutors brought a series of criminal RICO charges against the union leadership. Thereafter, a civil RICO suit was filed by the U.S. Attorney's Office in Philadelphia.

Here again, OLR played a significant role in developing the evidence to support the civil RICO filing, and OLR Special Agents were active participants in the trial and related hearings. On May 23, 1988 U.S. District Court Judge Louis Bechtle imposed a "Decreeship" on Local 30/30B, barring the thirteen defendants named in the civil suit from either holding any position of influence or leadership in the Local, or from engaging in the roofing or related construction industries within the geographical area of Local 30/30B. A Court Liaison Officer (CLO) was appointed by the Court to serve as principal enforcement officer for all provisions of the decree.

OLR has remained an active and interested participant in developments in this case. No elections have been held yet under the aegis of the Decreeship; however, on March 21, Judge Bechtle ordered the union to elect officers in June. A number of other positive results have been achieved as a result of this case:

- Corrupt officials were barred from union office and working in the roofing industry;
- Abuses of union funds have been greatly reduced;
- A legitimate grievance procedure has been established;
- Violence in the industry has been greatly reduced.

Executive Board IBT

OLR joined with the FBI and other agencies in developing and assembling evidence of a number of predicate acts on which this suit was based. Further, experienced OLR agents assisted the case prosecutors in preparing this complex case for trial. While it is unclear what our future role in this case will be, we expect that there will be continuous participation by our office, as the court-appointed officials begin their task. The extent of this participation remains uncertain beyond pursuing referrals of facts and circumstances which suggest improprieties or labor violations.

Given OLR's mission and the nature of the situations that existed in the cases described above, I believe the broad support given to the Justice Department by OLR was both correct and necessary. It is our intention to continue to provide this support, both prior to the filing of civil RICO suits and following court judgments, to assist the Department of Justice in ridding the labor movement of entrenched mob control and racketeering. In the context of post-judgment support, we have conducted investigations when lead information is provided to us by trustees and others, and we will continue to do so. We have provided advice and expertise to trustees when asked and will continue to do so. For example, we may be consulted regarding the qualifications and background of individuals being considered for union or welfare plan employment or other involvement.

However, we are unsure of our role beyond that of conducting criminal and civil investigations. Providing ad hoc support to court appointed trustees may conflict with other OLR investigative priorities and may require OLR to forgo other investigative opportunities. Further, providing support to assist a trustee in the management and administration of these cases costs real money and time, and currently these expenditures must come out of OLR's limited budget.

Last week, the Local 560 trustee told this Subcommittee, "Institutionally, the problem is that the Department of Justice and the Department of Labor have not geared themselves to provide the kind of support that a trusteeship needs." I would ask that this Subcommittee, and others in Congress, give some thought to these issues and provide some guidance regarding the post-judgment support which is required in these types of civil RICO cases.

Having said all this we must still remember that by virtue of its very power, civil RICO is a tool which should be employed with discretion. The Federal Government's temporary assumption of control over an organization is a significant step, one which should be undertaken only in circumstances where corruption is so pervasive that internal measures and other government actions are incapable of correcting the situation.

In addition to the potentially oppressive nature of the remedy, there are other practical reasons why OLR envisions the use of civil RICO only where circumstances clearly suggest the need for an external remedy:

o In both the pre-judgment and post-judgment phases, support of a RICO action is an expensive undertaking for all parties involved. Government resources devoted to these cases are considerable and there is a significant opportunity cost incurred in every civil RICO case;

o Finding individuals who are knowledgeable in union activities and willing to accept court appointed trustee positions is often difficult.

It seems clear to me that a judgment as to whether the civil RICO tool is an effective one in ridding corrupt unions from racketeer domination and restoring union democracy is premature. In looking at what has worked and what has not, OLR's experience does lead to a conclusion that an active law enforcement presence instituted under RICO encourages dissident union members to speak up and challenge criminal elements within their organization. A continuing and visible presence is required to convince members who have been intimidated for years that they are actually able to express their concerns without fear of reprisal . In the Local 560 case, while we do not know the long range results of our presence, I am convinced that a continuing high profile by OLR agents during the trusteeship empowered union dissidents, long stifled, to finally stand up and speak out against corruption and intimidation. We are told, moreover, that opposition slates will continue to seek elected posts in the future.

Our experience also leads to a conclusion that the control of union funds by the trustee is extremely vital, for it is the funds, including retirement and welfare plan funds as well as operating funds, which finance the racketeers. For example, in the Roofers Local 30/30B case, union officials spent approximately $27,000 of union funds for lunches during their criminal trial on charges of (among other offenses) misusing local union money. (I might add that this outrageous expenditure is being investigated as a potential embezzlement.)

In this context, I would also point out that union funds may be intentionally depleted in anticipation of a court-imposed trusteeship, which could affect the ability of the trustee to perform his job properly, and this is an area which Congress may wish to review.

In closing, let me say that I am aware that those persons directly affected by civil RICO suits uniformly believe that these suits are inherently improper and never justified under any circumstances. These are specious arguments because they simply ignore those situations in which corruption has so permeated the texture and fabric of a labor organization as to eradicate any democratic and legitimate processes which could serve as a framework for internal corrective action.

There are also those union officials who contend that they should not be named as defendants in a civil RICO suit because they have never been convicted of a crime and have not been named as members or associates of organized crime families. When confronted with a litany of corrupt acts by fellow union officials, these persons sat back and did nothing. These defendants are guilty of non-feasance and betrayal of their fiduciary obligations, and I contend they had an affirmative responsibility to act and take steps to address corruption -- much of it documented by court convictions. By failing to do so, they allowed racketeering to continue unabated. They, too, should be subject to RICO remedies.

Mr. Chairman, civil RICO is not a panacea to labor corruption, but the Office of Inspector General endorses its use as a remedy to be judiciously and objectively applied.

ADDITIONAL QUESTIONS FOR THE HEARING RECORD

Raymond Maria
Deputy Inspector General
Office of the Inspector General
U.S. Department of Labor

Question: What is the current policy of the Office of Labor Racketeering regarding the use of trusteeships under civil RICO? Does the Department feel this is an appropriate remedy for labor corruption and racketeering? Is it to be used in every successful criminal prosecution? If not, what criteria do you examine to determine whether a civil RICO suit is appropriate?

Answer: The decision to use trusteeships under the civil provisions of the Racketeer Influenced and Corrupt Organizations Statute (RICO) is exclusively the prerogative of the United States Department of Justice (DOJ). The Office of Labor Racketeering (OLR), therefore, has not formulated a policy relative to this matter. The OLR role is that of a dispassionate fact finder. Facts are presented to DOJ for prosecutive consideration.

While we cannot speak for the Department of Labor (DOL), it is our position that the judicious use of civil RICO trusteeships is an appropriate remedial tool where the history of racketeering demonstrates that criminal prosecutions alone are unlikely to achieve the objective of restoring democratic practices in labor organizations. A civil RICO trusteeship should not logically follow every successful criminal prosecution. Instead, its use should be reserved for relatively few labor organizations where the history of corruption is so pervasive that removing racketeers from their union positions through successful prosecution, while important, fails to create an environment conducive to responsible, legitimate elements achieving control over their own union.

Question: Does your office play any role in making that determination, or is it a decision solely within the discretion of the Department of Justice?

Answer: While the determination to use the trusteeship provisions under civil RICO is solely within the discretion of DOJ, OLR provides to DOJ evidence developed during its investigations suggestive of a pattern of racketeering in a labor organization where remedial action under the civil provisions of RICO may be appropriate.

Question: To what extent has your office been in contact with the trusteeships already in operation:

Teamsters Local 560, Union City, New Jersey;
Teamsters Local 814, Long Island City, New York;
Laborers Local 6A, New York, New York;
Roofers Local 30/30B, Philadelphia, Pennsylvania; and
Fulton Fish Market, New York, New York?

Answer: IBT Local 560

OLR played a major role in post-judgment proceedings in the Teamsters Local 560 civil RICO. OLR assisted the trustee in complying with the U. S. District Court mandate to administer the affairs of the local and to create and foster conditions under which union democracy would be restored and racketeer influence eliminated. OLR conducted approximately 100 post-judgment civil investigations as a result of information supplied by the trustee. Additionally, approximately 10 criminal investigations were conducted based on the information supplied by the trustee.

As a result of post-judgment OLR investigations, Federal District Court Judge Dickinson R. Debevoise on September 14, 1988, issued an opinion that the Genovese Crime Family had continued to retain control over Local 560 despite remedial action taken by Federal District Court Judge Harold Ackerman in 1984 in imposing a civil RICO trusteeship over the local. Judge Debevoise also held that Michael Sciarra and Joseph Sheridan were both enjoined from running for election to union office. Additional Stanley Jaronko, another Local 560 official, signed a consent judgement prohibiting him from participating in the affairs of any labor organization or employee benefit plan.

Roofers Local 30/30B

OLR has assisted the CPA firm of Peat, Marwick and Company, retained by the court to audit Local 30/30B. OLR provided the firm guidance and a written outline on how to proceed in the audit. Many of the findings in the final audit report were areas identified by OLR. Additionally, OLR has continued to support witnesses and the U. S. Attorney's Office by responding to complaints received from roofing contractors, union members and other witnesses.

OLR has not participated in the trusteeships involving Teamsters Local 814, Laborers Local 6A, and Fulton Fish Market.

Question: Once a civil RICO action is filed, does the DOL take an active role in assisting the U.S. Attorney's Office or the Strike Force in trial preparation, or is your role limited to criminal investigations and prosecutions?

Answer: OLR provides full support and assistance to the U. S. Attorney's Office or the Strike Force in trial preparation once a civil RICO action is filed. In both the Teamsters Local 560 and the Roofers Local 30/30B cases, OLR developed and assisted in preparing witnesses and exhibits for trial.

Question: Mr. Maria, to what extent was your office involved in the preparation of each of these cases:

Teamsters Local 560, Union City, New Jersey,
Teamsters Local 814, Long Island City, New York,
Laborers Local 6A, New York, New York,
Roofers Local 30/30B, Philadelphia, Pennsylvania, and
Fulton Fish Market, New York, New York?

To what extent did your office work with the FBI in any of those cases?

Answer: OLR assisted in the drafting of the 1982 civil RICO filing involving Teamsters Local 560. OLR agents participated with Attorney-in-Charge Robert C. Stewart, Newark Strike Force, and his staff in formulating the remedies sought. OLR gathered the evidence used to support the civil RICO complaint and, as stated in our response to the previous question, assisted in trial preparation. OLR was the lead investigative agency performing the bulk of the investigative work. The FBI also cooperated in this civil RICO filing. An OLR Special Agent was the affiant in an affidavit filed in support of the civil RICO complaint.

In the Roofers Local 30/30B civil RICO complaint, criminal investigations conducted by OLR and independent investigations by the FBI were combined to form the predicates for the civil RICO complaint. OLR played a significant role in developing the background information and evidence to support the filing and assisted the U. S. Attorney's Office in drafting the complaint. OLR Special Agents were active participants in the trial and related hearings.

OLR was not involved in the civil RICO complaints involving Teamsters Local 814, Laborers Local 6A, and Fulton Fish Market.

Question: Mr. Maria, in 1986, this Subcommittee heard testimony about ongoing turf battles and a lack of cooperation between your office and the FBI, particularly in the Cleveland area. Have those problems been solved, both in Cleveland and nationally?

Answer: Coordination between the Cleveland OLR office and the FBI is much improved. Nationally, the Office of Labor Racketeering headquarters staff and the Federal Bureau of Investigation headquarters staff have worked cooperatively on an investigation, "Dentex," of a nationwide scheme to use kickbacks in order to receive service contracts from employee welfare plans.

Question: Once a trusteeship is established, does the DOL maintain a liaison with the trustee to ensure that adequate assistance is being provided? What office is responsible for that liaison?

Answer: The Office of Labor Racketeering maintains close and effective liaison with the trustee once a trusteeship is established, when OLR has had an active investigative involvement. While the Office of Labor-Management Standards and the Pension Welfare Benefits Administration could possibly also assist the trustee, we cannot speak for these agencies. In this regard, there exists in DOL a lack of coordination among agencies with similar missions and an absence of an integrated enforcement program.

Question: Mr. Maria, has OLR taken any steps to ensure that defendants who have been permanently enjoined under RICO from an entity or from association with the LCN are monitored by law enforcement to ensure their compliance with the court order?

Answer: The Office of Labor Racketeering is establishing a central index to identify defendants who have been permanently barred under RICO and barred for a stipulated period by Section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) and Section 411 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) from association in labor organizations or employee benefit plans. We closely monitor the activity of defendants who are enjoined from unions or benefit plans as a result of an investigation by OLR. Additionally, we are taking steps to identify other defendants prohibited from labor organization or employee benefit plan involvement resulting from civil prosecution in cases investigated by other agencies within DOL.

Question: Currently, most trusteeships are funded from the entity which has been placed into receivership. Would many of the current problems be alleviated if the Government provided an alternative form of funding to the trusteeships?

Answer: Consideration should be given to using Government funds to fund trusteeships in order to avoid the depletion of assets of the labor organization in trusteeship.

Question: What type of support is the DOL prepared to provide to the IBT administrators? In view of the importance of this case, is the DOL committed to working with the court-appointed administrators?

Answer: We do not know the type of support the DOL is prepared to provide the IBT administrators. We anticipate that OLR will respond to referrals to investigate alleged violations. Moreover, OLR will work with the court appointed administrators as we have in the Teamsters Local 560 and Roofers Local 30/30B cases.

Question: Do you feel that the Government furnishes adequate support to trusteeships once they are operating?

Answer: We believe that we adequately supported the trusteeships in Teamsters Local 560 and Roofers Local 30/30B. However, we defer to the trustees to evaluate the adequacy of the support provided.

Question: Mr. Maria, do you feel that the trusteeships already in operation are succeeding in rooting out corruption and organized crime influence?

Answer: Some progress is being made in removing corrupt practices as a result of the trusteeships. An important salutary effect has been the creation of an environment conducive to democratic practices. It is, however, too early to tell how successful the civil RICO approach to rooting out corruption and organized crime influence will be.

Question: What specific recommendations do you have as to the use of civil RICO, the creation of trusteeships, and the relationship between a trusteeship and the Government?

Answer: Civil RICO should be used as a remedial step in labor organizations where successful criminal investigations and prosecutions have had a minimal effect in reducing the level of racketeering activity because of the pervasive and ingrained corruption in the captive organization. In such organizations, a culture of corruption has become the norm and neither arrest and conviction of individuals by the Government, nor internal union efforts at reform, are capable of removing racketeering elements from control.

In commenting on the relationship between the trusteeship and the Government, we can compare it to a relationship between an extremely disease stricken person and the attending physician. By implementing remedial measures to remove corrupt practices and racketeers from a victimized labor organization, the Government hopes to nurse a diseased organization back to health. As such, the members of the union are provided an opportunity to exercise control through their elected officials.

Question: Do you believe that there is a greater need for the Department of Justice to coordinate the resources of the Federal Government to ensure that adequate assistance is rendered to civil RICO trusteeships?

Answer: Yes.

Question: General President William J. McCarthy and General Counsel James Grady, testifying last week on behalf of the IBT, suggested three changes to the RICO statute, specifically:

- an amendment barring the imposition of a trusteeship on any labor Union;
- an amendment barring pre-trial imposition of such remedies prior to a full evidentiary hearing, held on the merits of the underlying allegations; and
- an amendment barring the Government from preventing the payment of attorney's fees by a Union to defend either the Union itself or its officers, members, etc.

Do you support these amendments? Why or why not?

Answer: We do not support the recommendation that would bar the imposition of the trusteeship of a labor organization for the reasons previously articulated in my testimony as well as our responses to your previous questions.

We do not support a recommendation for an amendment barring pre-trial imposition of remedies prior to a full evidentiary hearing. The Government has a responsibility to prevent the dissipation of a labor organization's assets.

We do not agree with a proposal for an amendment barring the Government from preventing the payment of attorney's fees by a union to defend either the union or its officers or members. The facts surrounding such payments should be subject to review by the court to determine whether payment is lawful, reasonable, and warranted. Payment of attorney's fees to defend a union official may also be subject to criminal investigation and prosecution, for example, when a union official is convicted of violating his fiduciary responsibilities.

Question:	What role do you believe the AFL-CIO can play in addressing corruption and labor racketeering?
Answer:	We believe that the AFL-CIO can play an important role in providing ethical leadership and by exercising greater moral suasion to its affiliated labor organizations, officers and members. Union members can be educated with respect to awareness of potential civil and criminal violations. The AFL-CIO can encourage the use of seminars and training to alert and remind members concerning what is sanctioned and proper and what is prohibited. Internal education and awareness initiatives could make union officers and members more sensitive to questionable or corrupt practices and could serve as an internal mechanism to reduce corrupt practices within labor organizations.

STATEMENT

OF

EDWARD S.G. DENNIS, JR.
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE
THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

CONCERNING

CIVIL RICO

ON

APRIL 12, 1989

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to discuss the issues surrounding the use by the Department of Justice of the civil RICO provisions.

Before I discuss our use of civil RICO in detail, I will provide a brief overview of current issues surrounding RICO in general, both criminal and civil. As I will note later, we have used the civil RICO statute most effectively after having first established the alleged racketeering acts thru criminal prosecution. Thus, Sections 1962 and 1964 of Title 18, the major criminal and civil provisions of RICO, have a strong and necessary symbiosis. As you know, RICO has been the subject of considerable controversy for several years because some private plaintiffs, in pursuit of treble damages, have transformed commercial disputes into RICO cases far outside the originally intended scope of the statute. More recently, considerable attention has been focused on the government's use of RICO's criminal provisions against businessmen accused of white-collar crime, particularly securities fraud, and on our use of the civil provisions in the labor area, the major focus of these hearings. In some quarters, these white-collar RICO cases have been seen as long overdue while in others, critics have loudly protested that RICO does not belong nor operates well in the boardrooms of the Fortune 500. This debate has attracted considerable media interest: In a recent article the Cleveland Plain Dealer headed its discussion of the controversy with a dramatic photograph from the 1930 gangster movie "Little Caesar," in which a dying Edward G. Robinson laments, "Mother of Mercy, is this the end of Rico?" [1]

Importance of RICO as a Law Enforcement Tool

In our view, the answer to Little Caesar's question must be an emphatic, "No!" Last April, Mr. Chairman, this Subcommittee held extensive hearings to evaluate the government's progress against organized crime over the past 25 years. Federal Bureau of Investigation (FBI) Director William S. Sessions extensively detailed that progress, with special emphasis on our magnificent successes in the 1980s against the leadership of mob families in Boston, Brooklyn, Buffalo, Chicago, Cleveland, Kansas City, Los Angeles, Manhattan, New Orleans, Philadelphia, and Rochester. [2] Members of the Subcommittee echoed two principal themes: a lot has been accomplished recently and a lot more needs to be done.

With regard to RICO, I recommend to you Director Sessions' chronology of events involving or affecting organized crime since the beginning of Prohibition. Although the list was not prepared to underscore RICO's effectiveness, in fact it does so. You will see that, of the 196 entries between January 1920 and October 15, 1970, the date RICO was enacted, very few entries reflect successful prosecutions. If anything, the list dramatically reflects an unchecked pattern of mob murders, promotions, and internecine coups. Moreover, the list contains relatively few RICO convictions even during RICO's first five years (1970-1975). During this period, prosecutions and convictions of mob leaders clearly increased but usually were of modest dimensions. Over the past fifteen years, and most especially after two significant Supreme Court decisions broadly upheld RICO's application to organized gangs and their illicit proceeds, [3] our RICO successes have picked up dramatically:

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[1] Cleveland Plain Dealer, Feb. 5, 1989, at 1-E.

[2] Organized Crime: 25 Years After Valachi: Hearings Before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs, 100th Cong., 2d Sess. 278-9, 339-349 (1988).

April 9, 1975: Dominic Brooklier, boss; Sam Sciortino, underboss; and Peter Milano, a captain of the Los Angeles Family were all convicted of violating the RICO Statute by extorting money from local bookmakers and businessmen. Sentences ranged from 15 months to 4 years'.

May 28, 1976: Frank Diecidue, the Tampa Family underboss, was indicted with several associates and charged with conspiracy and multiple counts relating to their participation in a RICO. Diecidue was convicted on November 16, 1976, along with 4 members of the Tampa gang.

February 28, 1978: The 5 top LCN leaders in Los Angeles were indicted on charges including RICO violations, extortion, and obstruction of a criminal investigation. The defendants were

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[3] Russello v. United States, 464 U.S. 16 (1983); United States v. Turkette, 452 U.S. 576 (1981).

Dominic Brooklier, boss; Samuel Sciortino, underboss; Louis Tom Dragna, influential member; and Jack LoCiero, consigliere.

November 15, 1979: Raffaele Quasarano and Peter Vitale, members of a council of 6 that supposedly ruled LCN activities in Detroit, were indicted for RICO, racketeering, extortion, mail fraud, and tax fraud. The charges were related to the takeover in 1972 of a cheese company in Wisconsin.

January 23, 1981: Frank "Funzie" Tieri, boss of the Genovese Family, was convicted of operating a criminal group through a pattern of racketeering, which included murder and extortion. He was the first boss convicted of RICO.

July 20, 1982: Cleveland LCN boss James Licavoli was sentenced to 17 years in prison for RICO, gambling, murder, and conspiracy charges in U.S. District Court, Cleveland, Ohio.

February 7, 1984: The entire hierarchy of the Kansas City LCN was indicted by a special Federal grand jury in Kansas City, Missouri. The RICO indictment used 4 predicate violations: the 1978 conspiracy to murder Carl Spero; LCN hidden interest in skimming from the Argent corporation; LCN hidden interest in skimming from the Tropicana casino; and the LCN skimming of the Kansas City bingo business. On September 4, 1984, subsequent to guilty pleas, Carl Civella received a 10 to 30 year sentence with a fine and Anthony Civella was sentenced to 5 years' and a fine.

February 25, 1985: A Federal grand jury meeting in the SDNY indicted the top leadership of the 5 New York LCN Families under the RICO Statute for operating a criminal enterprise known as the LCN Commission. This RICO indictment was made up of predicate acts of Hobbs Act-Extortion, murder, and labor racketeering. The following individuals were indicted: Anthony Salerno-boss-Genovese Family; Paul Castellano-boss-Gambino Family; Aniello Dellacroce-underboss-Gambino Family; Gennaro Langella-acting boss-Colombo Family; Anthony Corallo-boss-Luchese Family; Salvatore Santoro-underboss-Luchese Family; Christopher Furnari-consigliere-Luchese Family; Philip Rastelli-boss-Bonanno Family.

December 19, 1985: Michael Franzese, a Colombo Family member, was indicted for RICO violations involving his scheme of selling gasoline to retailers while failing to pay Federal, state, and local taxes.

June 13, 1986: Guilty verdicts were returned against the leadership of the Colombo Family in the SDNY. The defendants were charged with RICO conspiracy, extortion, and bribery. Following the convictions, the U.S. Attorney's Office filed a Civil RICO complaint against family members. This was the first Civil RICO complaint filed against an LCN family as an enterprise, and the labor unions they influence.

November 5, 1986: Harry Davidoff, Vice President of IBT Local 851, was found guilty after a jury trial in the Eastern District of New York (EDNY) of RICO-Conspiracy, 2 counts of the Hobbs Act-Extortion, and 2 counts of Hobbs Act-Conspiracy. This investigation was directed at the LCN's control of the air freight industry at JFK International Airport through its influence within the Teamsters Union.

November 24, 1986: Anthony "Fat Tony" Salerno, head of the Genovese LCN Family, and 3 other mob figures were indicted for "exerting influence and control over Jackie Presser's selection as General President for the scandal-plagued 1.7 million member union (IBT) in 1983 and then influencing his decisions and acts to benefit the mob." In May 1988, following a 13-month trial, the government obtained convictions of nine defendants in the hierarchy of the Genovese crime family on charges involving extortion, labor racketeering in the concrete industry, gambling, and murders. In October 1988, family boss Anthony Salerno, already serving a 100-year sentence from his conviction in the "Commission" case, was sentenced to an additional 70 years, was fined $376,000, and was ordered to forfeit half of the racketeering proceeds in the case, which were estimated at $30 million.

December 23, 1986: A 61-count indictment was returned in the Eastern District of Pennsylvania charging 19 individuals associated with Roofers Union Local 30 under the RICO Statute with the predicate violations being extortion, embezzlement, and bribery. Judges Esther R. Sylvester, Court of Common Pleas and Mario F. Driggs, Municipal Court, were charged in separate indictments with 1 count each of extortion.

January 13, 1987: U.S. District Court Judge Richard Queen, sentenced the below-listed defendants in the Commission case as follows:

Anthony Salerno, Genovese Family boss, received 100 years' to run consecutively and was fined $240,000 with no parole.

Carmine Persico, Colombo Family boss, was sentenced to 100 years' to run consecutively, and fined $240,000 with no parole.

Gennaro Langella, Colombo Family underboss, was sentenced to 100 years' to run consecutively, and was fined $240,000, with no parole.

Ralph Scopo, Colombo Family soldier,

was sentenced to 100 years' to run consecutively, and was fined $240,000 with no parole.

Anthony Corallo, Luchese Family boss, was sentenced to 100 years' to run consecutively, and was fined $240,000 with no parole.

Salvatore Santoro, Luchese Family underboss, was sentenced to 100 years'

to run consecutively, and was fined $250,000 with no parole.

Anthony Indelicato, Bonanno Family member, was sentenced to 40 years in prison to run consecutively, and fined $50,000 with no parole.

March 2, 1987: A New York jury returned guilty verdicts against 18 subjects in the much-publicized "Pizza Connection" trial. As a direct result of this investigation, an additional 175 Mafia members and associated in Italy were indicted. The only acquittal in this case was for Vito Badalamenti, the son of Gaetano Badalamenti, who was the former chief of the Sicilian Mafia and known in Italy as the boss of all bosses.

March 21, 1987: Peter and Carmen Milano, boss and underboss of the Los Angeles Family, were indicted by a Federal grand jury in Los Angeles. The indictment also charged 13 other defendants with conspiring to violate the RICO Statute by being part of or associated with the LCN, through which they engaged in drug trafficking, OOJ, and extortion.

In addition, since we appeared before the Subcommittee last April, the following major RICO prosecutions, among many others, can be added to the list:

Late last year, a federal jury in Philadelphia convicted

La Cosa Nostra boss Nicodemo Scarfo and his co-defendants (including the underboss, a former underboss, two capos, and one former capo) of RICO charges involving drugs, extortion, gambling, and 14 murders. [4]

On January 13, 1989, a federal jury in Cleveland convicted Teamsters International Vice-President Harold Friedman and a co-defendant of embezzling hundreds of thousands of dollars from two Cleveland locals through payments to "ghost" employees. The third defendant, Teamsters General President Jackie Presser, died prior to trial. [5]

On December 29, 1988, after an eight-week trial, a jury in Rochester convicted La Cosa Nostra boss Loren Piccarreto, along with a capo and a "made" member, of RICO. Two other defendants, including Angelo Amico, the Rochester family's acting "street boss," pleaded guilty to RICO in October 1988. The charges, brought by the Buffalo Strike Force, arose from the defendants' conducting illegal gambling businesses and extorting the operators of other such businesses. [6]

In May 1988, Mario Renda, the founder and owner of First United Fund, Ltd., one of the nation's leading money lenders, pleaded guilty to RICO conspiracy in a case brought by the Brooklyn Strike Force. Renda and his co-defendant Martin Schwimmer, an investment adviser who was convicted by a jury late last year, were charged with the theft of more than $14 million from two unions and their employee benefit plans, which had invested more than $100 million with First United. The court ordered forfeiture of more than $4.25 million. [7] I am also pleased that coordination was outstanding in this case between the FDIC and FSLIC and our Brooklyn and Kansas City Strike Forces.

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[4] United States v. Scarfo, No. 88-3 (E.D. Pa. 1988).

[5] United States v. Friedman, No. 86-114 (N.D. Ohio 1986).

[6] United States v. Amico, No. 87-177 (W.D.N.Y. 1987).

In Los Angeles, the Strike Force by July 1988 had obtained RICO convictions of La Cosa Nostra boss Peter John Milano, along with the underboss, a capo, and eleven others, based on a pattern of racketeering activity involving drug trafficking, extortion, loansharking, attempted murder, and extortion. [8]

These are just a few of the many recent successes against organized crime made possible by the RICO statute, and the list is getting longer. The reason for this trend is no great mystery: Nothing succeeds like success. As we gain experience with RICO, we have discovered that entire mob factions can be efficiently indicted, convicted, and sent to jail in one trial for wide-ranging crimes. We will continue to bring those cases. I am particularly pleased to report that organized crime and labor-racketeering prosecutions under RICO remain a high priority of the Department of Justice.

Other Uses of RICO

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[7] United States v. Schwimmer, No. 87-423(s) (E.D.N.Y. 1987).

[8] United States v. Milano, No. 87-439 (C.D. Cal. 1987).

Moreover, high-profile organized crime and labor-racketeering cases tell only a small part of RICO's story. Since 1981, when the Department instituted its centralized review and approval process for all government RICO cases, we have approved approximately 800 RICO prosecutions against more than 3,000 defendants. Those cases have involved serious criminal activity of almost limitless variety, ranging from sophisticated bank and securities frauds [9] to armored car robberies and murders by a highly structured band of neo-Nazi terrorists. [10]

One of the most important uses of RICO, apart from attacking traditional organized crime enterprises and labor racketeering, has been in the area of public corruption. Since 1984, when we began keeping detailed statistics, 27% of all approved RICO prosecutions have involved public corruption at the state, local, or, occasionally, the federal level. Perhaps the most sustained use of RICO to prosecute a series of related cases was operation "GREYLORD," in which, to date, 14 judges, 47 attorneys, and 22 other individuals have been convicted of RICO in connection with corrupt activities in the Cook County, Illinois, court system. [11]

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[9] E.g., United States v. Galanis, No. S 87 Cr. 520 (CLB) (S.D.N.Y. 1987).

[10] United States v. Yarbrough, 852 F.2d 1522 (9th Cir. 1988).

[11] See, e.g., United States v. LeFevour, 798 F.2d 977 (7th Cir. 1986).

Another area in which RICO prosecutions have proved invaluable is narcotics trafficking. Since 1984, this fact pattern has been the second most prevalent, accounting for 25% of all RICO cases approved by the Criminal Division. By contrast, it may be instructive to note that securities fraud has been the primary factual scenario in only about one percent of all RICO prosecutions for that period. It also is worth noting that about 50% of all RICO prosecutions seek forfeiture of illegal proceeds or other assets connected to the defendants' racketeering activity. We expect that percentage to increase as we continue to educate prosecutors about the possibility of obtaining this powerful penalty in a RICO prosecution.

The record of successes under criminal RICO is an impressive one. When used properly, RICO works well, especially against entrenched criminal enterprises and those who corrupt legitimate enterprises. No-one can seriously deny that RICO has been the principal statutory tool whereby previously "untouchable" mobsters, labor racketeers, and corrupt public officials have been removed from office, sent to jail, and forfeited many millions of dollars.

Government's Controls on Use of RICO

It is axiomatic that any statute is subject to abuse, not just one as powerful as RICO. During your hearings, you may hear from critics of RICO that certain prosecutions -- or civil RICO cases initiated by the government -- were overly broad. Certainly, with respect to private civil RICO cases, there is abundant evidence that the statute needs tightening. For example, it is technically possible to base a RICO case on two uses of the mails in furtherance of a scheme to defraud someone of a small amount of money or other property, as long as the defendant is "associated with" a corporation or other enterprise that affects interstate commerce.[12] Because unworthy cases have been brought by private plaintiffs to RICO's detriment, the Department has been working with the appropriate Congressional committees for several years to develop legislation to limit unwarranted private suits while preserving RICO's vital provisions for use by the government. The Department generally supports S. 438, a reform bill that was introduced in February of this year, although we have reservations about some details of the bill's provisions.

Similarly, there are those who feel that RICO should not apply to non-organized crime, "white-collar" defendants, most notably members of the financial community. I disagree. To be sure, RICO is not a bludgeon to extract guilty pleas; no statute is. By the same token, however, our legal system is based on the principle that laws apply equally to all citizens. If sustained criminal conduct by an organized crime figure is serious enough to trigger RICO, as carefully defined in Section 1961 of Title 18, United States Code, it ought to apply as well when the same crimes are committed by a man in a business suit. Put another way, our laws are blind to the color of the defendant's collar. Nor can we ignore the perception that many citizens have that the judicial system operates in favor of the wealthy, well-connected criminal. In his song, "Pretty Boy Floyd," Woodie Guthrie condemned bankers in Oklahoma during the Depression who were defrauding landowners while the government was (in Guthrie's view) off chasing outlaws:

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[12] It should be noted that some courts have held that multiple schemes are required for a pattern of racketeering activity. The Supreme Court will soon decide a case that should make clear what elements are required for a RICO pattern beyond the mere commission of two racketeering acts. H.J. Inc. v. Northwestern Bell Telephone Co., 829 F.2d 684 (8th Cir. 1987), cert. granted, 108 S. Ct. 1219 (1988).

> As through this life I've rambled
> I've met many funny men.
> Some would rob you with a six-gun
> And some with a fountain pen!

In today's society, where so many serious crimes are committed or facilitated electronically, it is imperative to use all statutes at our disposal that will reflect the full scope of the criminal enterprise. To be sure, criticism will arise from time to time that a particular RICO indictment goes too far. Our record to date demonstrates, I submit, that our criminal and RICO civil actions have been consistently well prepared and litigated. Since 1981, long before the present controversy over RICO erupted, the Department has had in place strict written guidelines governing the use of RICO by all federal prosecutors.[13] Every proposed government RICO case, criminal or civil, is subjected to a detailed review by our Organized Crime and Racketeering Section attorneys in Washington for legal sufficiency and for adherence to the policy justifications for using RICO. Many cases in which field prosecutors tentatively consider RICO charges are never formally submitted for RICO approval after discussions with our headquarters staff. Of those cases that are submitted and approved, almost all undergo significant modification during the review process, such as dropping certain defendants or predicate offenses from the RICO counts. In evaluating the government's use of RICO, therefore, I think the following points should be remembered:

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[13] United States Attorneys' Manual § 9-110.200, et seq.

1. Judicial review of RICO prosecutions has been overwhelmingly positive. Of the hundreds that have been filed and litigated, very few have been successfully attacked for legal insufficiency.

2. Some types of RICO indictments, once the subject of great controversy, have become accepted and, indeed, welcomed. The GREYLORD project is an example. When the first of its cases were brought, a storm arose over the applicability of a federal "racketeering" statute to the Cook County judicial system. GREYLORD was also controversial because the government used an attorney to make undercover contacts with corrupt judges and court officials. Today, over five years and 83 RICO convictions later, the GREYLORD project has been of incalculable benefit to the citizens of Chicago. Without RICO,

which permitted direct allegations of bribery in violation of Illinois law, GREYLORD never would have achieved its goals.

Of course, we must use RICO carefully if we are to avoid the controversies and misperceptions that continue to plague it. One particular concern is the public's perception of when and how the government requests temporary restraining orders ("TRO's"), in order to prevent RICO defendants from disposing of criminally tainted assets before trial. Some of RICO's critics have engaged in frenetic and, on occasion, misleading rhetoric about TRO's. Contrary to their assertions, the government cannot and does not "seize" or "forfeit" assets under RICO prior to trial.[14] In relatively few cases, the government has requested the district court, after an adversary hearing, to grant an order that preserves the status quo of assets that may be subject to forfeiture in the event of a RICO conviction. The court, after due consideration of the rights of all concerned, may grant the requested order or a modified version of it where a threat exists that the assets will be dissipated. It is our policy in reviewing a proposed RICO TRO to ensure the terms thereof permit the affected enterprise or business to carry on its normal operations. In order to protect the rights of third parties, our prosecutors are now instructed, whenever a TRO is sought, to state publicly that the government does not intend to interfere with the proper daily activities of any business or third party.

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[14] See, e.g., L. Crovitz, "RICO's Broken Commandments," The Wall Street Journal, Jan. 26, 1989, at A-14 (discussing "pre-trial forfeiture").

Another aspect of our RICO control system is our informal policy of granting pre-indictment conferences to defense counsel who believe their clients may be indicted for RICO violations. More often than not, of course, the prosecution goes forward. But we pay particular attention to defense arguments against RICO authorization and, on occasion, those arguments succeed in significant respects.

Government's Use of Civil RICO

With that general description of our use of RICO as background, I will discuss our use of civil RICO. Since our centralized review process began in 1981, the Department of Justice has filed 13 civil RICO suits. Obviously, this is a small number compared with RICO prosecutions initiated over the same period. The difference in numbers is explained in part by the differences in the natures of criminal and civil RICO. There are two kinds of government civil RICO suits: those involving the court's equitable powers to enjoin racketeering within the "enterprise," typically a labor union, and those seeking treble damages where the government itself has been victimized by criminal conduct, such as procurement fraud. We view this latter category as a high priority although, as I will note shortly, we need legislation to clarify the government's ability to recover treble damages if we are to pursue such cases aggressively.

This Subcommittee is well aware, of course, of our Section 1964(a) suits filed against organized criminal elements within the International Brotherhood of Teamsters, its subordinate locals 560 and 814, and of similar suits against Laborers Local 6A in New York City, Roofers Local 30 in Philadelphia, and the "Fulton Fish Market" case in lower Manhattan, among others. Before I discuss our approach and aims in these cases, let me briefly explain -- for the benefit of some observers who have raised the question -- why we haven't filed 50 or 100 civil RICO cases. First, by definition, the government can only file for treble damages -- if at all [15]-- where it has been directly victimized by the alleged crimes. Moreover, in many such cases, Congress has already provided the government with more specific remedies, such as the False Claims Act. [16]

With respect to § 1964(a) cases for equitable relief-- often misunderstood and mischaracterized by the public as RICO "take-over" suits -- the government must demonstrate that a business or labor union is currently under the influence of continued racketeering. A good number of our criminal RICO prosecutions, upon which follow-up civil RICOs presumably could be based, do not involve such circumstances. Either the "enterprise" consists of the criminals themselves, or the convictions and sentences of the white-collar defendants are sufficient to cleanse the affected businesses or unions of the principal criminality. In other words, in many labor-racketeering cases prosecuted under RICO, the problem resides primarily with the individual defendants, and can be adequately addressed by convicting those persons and removing them from office under criminal statutes. Finally, a considerable number of our RICO prosecutions relate to enterprises such as court systems or municipalities.[17] Even though continued criminal conduct is often suspected within such entities, clearly it would be inappropriate to attempt under § 1964(a) to seek federal supervision of state or local functions.

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[15] The courts have divided as to whether the government qualifies for recovery of treble damages under 18 U.S.C. § 1964(c). See infra notes 39-40.

[16] See 31 U.S.C. §§ 3729-31.

Thus, we always consider alternative remedies when weighing a possible civil RICO action. For example, in cases involving corruption affecting labor unions, a suit by the Department of Labor under the LMRDA may be more cost-effective and practical -- and less drastic -- than a RICO action. I have recommended that the Department of Justice again propose legislation, which was submitted for the Administration's consideration in April of last year, that seeks in part to implement certain recommendations of the President's Commission on Organized Crime. One of the proposals would give the Secretary of Labor standing to bring a civil action against labor union officials who breach their fiduciary duties under the LMRDA with respect to internal labor union affairs. Only union members may pursue such actions under current law. Civil remedies for the Secretary's lawsuit would include removal of the offending official from his position in the union and other appropriate relief including injunction and damages.

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[17] In 1988, in fact, RICO prosecutions alleging public corruption were the most common type that we filed (27%). Narcotics was the second most common fact pattern (25%) and general fraud third (12%).

Settlement of Teamsters International Suit

Given that a civil RICO suit is not always the preferred approach to removing corruption from legitimate organizations, the few cases that we have carefully chosen to file have had an extremely significant overall impact. In the § 1964(a) context, we look for situations where the history of racketeering within an enterprise demonstrates that criminal prosecutions alone are unlikely to get the job done. A prime example is the International Brotherhood of Teamsters ("IBT"). As you know, our civil RICO suit in Manhattan against the IBT's Executive Board was settled last month on the eve of trial.[18] Over the last 30 years, federal prosecutors had successfully prosecuted 200 cases involving Teamsters-related offenses, resulting in more than 340 convictions. Yet the influence of La Cosa Nostra remained. Removing racketeers from their Teamster jobs, while important, had not corrected a system which perpetuated their influence. There are four important features of the settlement, in our view, that should bring much needed change to the IBT:

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[18] United States v. International Brotherhood of Teamsters, No. 88 Civ. 4486 (DNE) (S.D.N.Y. 1988).

1. From a list of candidates proposed by the parties, an Administrative Officer will be appointed by the court to discipline and even remove from office corrupt and dishonest Teamsters officers and employees. In this regard, the Administrative Officer will have the full powers of the IBT president. This officer also will have authority to review and veto expenditures and appointments to union positions made by International Union officials if such expenditures or appointments further an unlawful act or reflect association with organized crime figures.

2. An Investigative Officer will also be appointed with authority to investigate the operation of the IBT and any of its affiliates and, with cause, to initiate disciplinary charges against IBT personnel under the union's constitution, and to institute trusteeship proceedings under that constitution. In this regard we note that, contrary to Teamsters President McCarthy's statement last week to this Subcommittee, the settlement is consistent with existing law governing trusteeships. Under the Labor-Management Reporting and Disclosure Act (LMRDA) a trusteeship may be imposed by a superior labor organization only to correct corruption or financial malpractice, to assure the performance of collective bargaining responsibili-ties, to restore democratic procedures, and to otherwise carry out the legitimate objects of the

organization. 29 U.S.C. § 462. We believe that the civil RICO action against the Teamsters Union was fully consistent with that statutory purpose and LMRDA policy, inasmuch as the Teamsters leadership had not acted to correct acts of corruption and labor racketeering that had persisted for many years at various levels of the organization. Our goal was, and is, to restore and enhance democratic procedures within the Teamsters Union and to return control of the union to the individual members in those situations where organized criminal elements dominate or corruptly influence labor union affairs.

3. An Elections Officer will supervise a new election to be conducted in 1991, and any special elections before then.

4. There will be direct election of delegates and International officials.

By requiring the direct election of delegates from local unions to the International Union's convention within a few months before the convention scheduled to be held in 1991 and before every such convention thereafter, the settlement terms should meet the objection of those who have argued that the current method of delegate election does not provide for a timely selection of delegates. The old procedure, which permitted elected local union officials to automatically attend the convention as ex officio delegates, arguably prevented the rank and file from making a timely choice of their delegates to the convention because local union elections sometimes occur as long as three years before the scheduled convention. Contrary to the Teamsters' statement to this Subcommittee, the settlement is consistent with prior government litigation in which the government approved the old procedure,[19] because the LMRDA requires only that delegates be elected by secret ballot, which is accomplished by local union officer elections. However, the IBT settlement goes further and requires that delegate elections take place within six months of the convention.[20]

Moreover, the settlement requires that, following their nomination at the International Union's convention, the General President and 20 other International Union officials will be directly elected by rank-and-file voting rather than by action of the convention. In this respect the settlement terms are more supportive of democratic participation by members in union officer elections than the requirements of federal law, which give labor unions the option of electing their national or international union leaders by direct ballot or by convention in contrast to the settlement's use of both methods in combination.[21] This does not mean that the Election Officer, whom Judge Edelstein will appoint upon the parties' recommendation to directly oversee the election procedures through 1992, will be able to apply standards which are less democratic than those imposed by the LMRDA. The settlement order expressly provides, for example, that the general election of International Union officers will use "in-person ballot box voting at local unions or absentee ballot procedures where necessary, in accordance with Department of Labor regulations."

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[19] Theodus v. McLaughlin, 852 F.2d 1380 (D.C. Cir. 1988).

[20] There is an exception for local union elections already scheduled for the Fall of 1990 before the convention in Mid-1991.

[21] 29 U.S.C. § 481(a).

There is one other feature of the IBT civil RICO suit that I should mention. Union defendants and General Executive Board members Maurice Schurr and Harold Friedman, who had been convicted of federal crimes involving positions in the Teamsters Union, have agreed to leave union office. Friedman, as you know, was recently convicted on RICO-embezzlement charges in Cleveland, Ohio. He is currently seeking a stay of his federal statutory disqualification from union office while his appeal is pending. Friedman argues that, under other litigation pending in the Court of Appeals for the Sixth Circuit, the courts have inherent power to stay any federal disability imposed as a result of conviction, notwithstanding 1984 amendments of 29 U.S.C. § 504 which sought to immediately disqualify union officeholders upon conviction in the trial court. In addition, Rule 38 of the Federal Rules of Criminal Procedure, as amended ~~by the Sentencing Reform Act,~~ expressly provides with respect to disqualifying crimes committed after November 1, 1989, that any federal employment disability may be stayed pending appeal. We support a legislative proposal to make it absolutely clear that neither Rule 38 nor the courts' inherent powers could be invoked to prevent the removal of a convicted union or employee benefit plan official pending appeal of the disqualifying conviction. This proposal would prevent either the Friedman or Schurr scenarios from recurring by amending 29 U.S.C. § 504 to make clear that no disqualification could be stayed pending appeal and to make conviction for every receipt of a prohibited payment from an employer a disqualifying crime, even if it could not be legally characterized as "bribery," as in the case of Maurice Schurr.

While I am on the subject of the IBT suit, I would like to clear up confusion created by IBT President McCarthy's statement to this Subcommittee concerning the payment of legal fees by a union to its officers who are charged with conduct harmful to the union. It is our position that labor unions are justified in reimbursing their officials' legal expenses _if_ the litigation involves their performance as union officials _and_ where other union officials, who are not charged in the litigation, approve or recommend the approval of the expenditure with a good-faith belief, based on a thorough examination of the litigation, that the underlying charges of misconduct made against the litigant official are without merit and that the expenditure would not be detrimental to the organization. A good-faith authorization of such litigation expenditures ordinarily must await the union official's exoneration of the charges after a trial or other judicial disposition on the merits of the underlying litigation. This is certainly a prudent rule to follow in civil litigation which is predicated on alleged criminal misconduct. We think that this position comports with the standards of fiduciary responsibility imposed on labor union officials by the LMRDA in regard to the management of union funds and property.[22] We note that state law generally does not permit corporations to advance legal expenses to officers and directors unless the recipient of the advance promises to repay the funds if, under state law, he could not be indemnified by the corporation at the conclusion of the litigation.[23]

Other Labor-Related Civil RICO Suits

Apart from the suit involving the Teamsters International, the government's most dramatic success with civil RICO to date is the suit involving Teamsters Local 560 in New Jersey.[24] The government sued in 1982 to rid the union of the influence of organized crime figures who had corrupted the union and its executive board through a pattern of violence and intimidation over a period of more than twenty years. After a lengthy trial, the district court issued injunctions against organized crime defendants and removed the entire executive board from office, appointing a trustee to supervise the union's affairs until fair elections could be held. The court's actions were upheld by the Court of Appeals in 1985, and the Supreme Court declined review in 1986. Events in this litigation have continued to unfold; I will provide a brief summary of recent developments.

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[22] See, e.g., Morrissey v. Segal, 526 F.2d 121,127 (2d Cir. 1975) and cases cited therein holding that union officials charged with breaches of fiduciary duty were properly enjoined from expending union funds for their personal defense prior to a full determination of the charges on the merits.

[23] See Special Project Note, Protecting Corporate Directors and Officers: Indemnification, 40 Vand. L. Rev. 737, 753 (1987).

[24] United States v. Local 560, International Brotherhood of Teamsters, 780 F.2d 267 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986).

Since our appearance before this Subcommittee one year ago, the court-appointed Trustee of Local 560 and the Labor Department's Office of Labor-Management Standards supervised free elections. One of those elected was the brother of ousted trustee Michael Sciarra, creating a "What went wrong?" reaction in the media. This naive reaction assumes that, in the rough and tumble world of union politics, the rank and file should have elected someone presumably more to the government's liking. And yet, even RICO's severest critics will concede that, for the first time in nearly 25 years, Local 560 conducted an open, free, and fair election. The fact that the members elected a slate opposed to a continued federal presence in Local 560's affairs should not come as a surprise to knowledgeable observers of Local 560. Nonetheless, none of Local 560's newly elected officers has a criminal record; none was accused in the RICO lawsuit as being influenced by organized crime figures. It is important to recall that all of the original defendants in the Local 560 suit were removed from office, and some of the defendants were barred from any further dealings with Local 560 or any other union. It also is very important to note that the recent election saw a 62-percent turnout, which is an excellent percentage for the labor movement. Moreover, the election campaign was spirited with the major opposition slate receiving one-third of the vote. I suggest that it is appropriate to focus upon the new spirit of democracy evidenced in the recent election and the considerable, broad reforms that have taken place in this union to date. We intend to continue to work with the Trustee, Edwin Stier, who is still in place, to achieve, gradually, permanent reform of Local 560.

Following the success in Local 560, prosecutors filed suits alleging corruption of unions and related businesses in Manhattan, Brooklyn, and Philadelphia. In one major action, the United States Attorney in Brooklyn in 1987 filed a suit against the Bonanno Family, Teamsters Local 814, and others. [25] The suit, which is based largely on prior prosecutions by the Brooklyn Strike Force, [26] sought to remove the organized crime influence from the union and obtain the appointment of a trustee. The suit also seeks treble damages in connection with criminal activity that injured the government financially. Pursuant to consent decrees, much of the requested relief has been granted. The trustee supervised fair elections in February of this year; the voter turnout was two-and-one-half times greater than ever before. Some legal issues in the case, including whether the United States is a "person" entitled to recover treble damages under RICO, are currently before the Court of Appeals.

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[25] United States v. Bonanno Organized Crime Family, 638 F. Supp. 1411 (E.D.N.Y. 1988).

[26] E.g., United States v. Rastelli, No. 87-1057 (2d Cir. March 16, 1989).

In December 1987, when I was United States Attorney in Philadelphia, we filed a major civil RICO suit against Roofers Local 30 and several of its officers, immediately upon the criminal RICO convictions of business manager Stephen Traitz, Jr., and others. [27] The evidence in the criminal trial established that Traitz and others used physical violence and intimidation to exact payoffs to the union. Following a hearing on the government's request for a civil injunction, the district court in May 1988 appointed a "court liaison officer" to monitor the union's affairs and granted broad equitable relief. [28]

In a suit involving Cement and Concrete Workers Local 6A in Manhattan, [29] which was a follow-up to a criminal RICO prosecution of members and associates of the La Cosa Nostra

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[27] I am pleased to report that the Third Circuit Court of Appeals affirmed the convictions on March 22, 1989. United States v. Traitz, No. 88-1048 (3d Cir. March 22, 1989).

[28] The Third Circuit Court of Appeals recently upheld the granting of the permanent injunction in all respects. United States v. Local 30, United Slate, Tile and Composition Roofers Association, No. 88-1508 (3d Cir. March 23, 1989).

[29] United States v. Local 6A, Cement and Concrete Workers, 663 F. Supp. 192 (S.D.N.Y. 1986).

Colombo Family, [30] the government obtained consent agreements that, among other provisions, restricted the union defendants' participation in union affairs. Under the agreements, the court also appointed a monitor to oversee the operations of the union. The monitor has already successfully supervised one free and fair election; he will supervise another in 1990, and he will remain in office until 1991.

The government also has filed several other labor-related civil RICO cases in recent years, involving unions associated with the Fulton Fish Market in New York, [31] Teamsters Locals 804 and 808, [32] and, in a follow-up action, Teamsters Local 560. [33]

Non-labor Civil RICO Suits

The government has successfully used the equitable provisions of civil RICO in a non-labor context as well. In New York, the government obtained equitable relief against persons who had been skimming profits from several restaurants and bars. [34] One restaurant is in permanent receivership following litigation in which the government prevailed through the Court of Appeals. We are contemplating using the equitable provisions in other non-labor areas as well.

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[30] United States v. Persico, 832 F.2d 705 (2d Cir. 1987).

[31] United States v. Local 359, United Seafood Workers, Smoked Fish & Cannery Union, United Food and Commercial Workers International Union, No. 87 Civ. 7351 (TPG) (S.D.N.Y. Jan. 24, 1989).

[32] United States v. Long, No. 88 Civ. 3289 (S.D.N.Y. 1988).

[33] United States v. Gigante, Civ. No. 88-4396 (D.N.J. 1988).

[34] United States v. Ianniello, 824 F.2d 203 (2d Cir. 1987).

As I noted earlier, we have used the treble-damages provisions of 18 U.S.C. § 1964(c), although these cases are fewer because the government must be a victim of the RICO violation in order to qualify for recovery of damages, and there usually are other legal remedies available besides RICO. Those cases to date have involved a multi-million-dollar contract fraud against the Army, [35] fraud against a federally insured credit union, [36] fraud in connection with a federal crime insurance program, [37] and fraud against the government in connection with a moving contract, charged in the Bonanno Family suit. All of these actions are still pending. In addition, the FDIC and FSLIC have brought some treble-damages RICO suits without the assistance of the Department of Justice. [38]

In this connection, we do have a request for legislative relief. The district court in the Bonanno Family civil RICO case has ruled that the government is not a "person" entitled to recover treble damages.[39] Another district court, in Florida, decided this issue in favor of the government.[40] We have recommended a legislative clarification of this point. Several of the civil RICO reform bills, including S. 438, would do so.

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[35] United States v. Barnette, No. 85-754-CIV-J-16 (M.D. Fla. 1985).

[36] United States v. Riviecclo, No. CV-86-1441 (E.D.N.Y. 1987).

[37] United States v. Shasho, No. CV-86-1667 (E.D.N.Y. 1986).

[38] E.g., Federal Deposit Insurance Corp. v. Antonio, 843 F.2d 1311 (10th Cir. 1988); Federal Deposit Insurance Corp. v. Hardin, 608 F. Supp. 348 (E.D. Tenn. 1985).

Assistance to Court-Appointed Officers

Last week, five court-appointed RICO trustees or monitors from New York, New Jersey and Pennsylvania told this Subcommittee that many problems remain to be solved after the government wins a civil RICO judgment against labor racketeers. To do their job effectively, these officers, and those who follow in their footsteps, will need information, legal and practical advice, perhaps protection, and adequate funding. As we file and complete more of these lawsuits, we are learning to anticipate some of these issues and act accordingly. We are sympathetic to the problems faced by these officers, I can assure you. Indeed, it is in our interest to help to every extent appropriate since these officials are serving after considerable effort and expense to us in winning their appointment.

Before I discuss briefly some of these problems, let me emphasize an important limitation to Section 1964(a), one that we would not seek to change. The RICO statute is a powerful tool for removing racketeering influence from an enterprise such as a labor union. RICO ought not to be a vehicle -- I wish to emphasize this -- to invade the affairs or solve the myriad problems of a labor organization beyond what is necessary to deal with the racketeering alleged in the RICO complaint. Over the years Congress has carefully crafted a delicate balance between management, labor, and the government (generally the Department of Labor). RICO is not a hidden agenda for realigning that balance; to the contrary, RICO is designed to correct whatever imbalance has been created by the presence of racketeering. I make this point because it would be easy otherwise for us, in helping trustees through their day-to-day operations, to fall into the trap of attempting to correct problems that are not mob-related.

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[39] United States v. Bonanno Organized Crime Family, 683 F. Supp. 1411 (E.D.N.Y. 1988). Oral argument on this issue was recently held in the Court of Appeals for the Second Circuit.

[40] United States v. Barnette, No. 85-754-CIV-J-16 (M.D. Fla. Sept. 5, 1985).

Now, let me comment on two issues: information and funding. On many occasions, the trustees need information that can only be obtained through an investigation of the sort conducted by the FBI and the Labor Department's Office of Labor Racketeering, such as information concerning the criminal record or criminal associations of a person associated with the union. Although the Department of Justice and the FBI provide such information to trustees as much as possible, we need to formulate definite policies that set forth in detail who should conduct such investigations and how extensive they may be. We are working closely with the FBI and the Department of Labor in this area. As a general proposition, we are opposed to allowing a trustee to use the FBI as a free-wheeling investigatory arm of the trusteeship, principally because a trustee may be legitimately interested in persons or matters having little to do with alleged violations of law. This is a sensitive point on both sides -- there are legitimate privacy concerns implicated, and we need to proceed carefully.

As for funding, there is at present no consensus on the appropriate source of funding for the operations of trustees. In order to carry out their duties, trustees need substantial resources. Resolution of this issue is critical to the continued availaility of this tool in addressing entrenched patterns of corruption and criminality.

Under the LMRDA, labor unions are permitted -- we would argue required -- under serious enough circumstances to impose trusteeships upon their locals in order to correct corruption or malpractice, or to restore democratic processes, among other things. Indeed, if the IBT Executive Board had recognized and executed long ago its fiduciary obligations to address widespread mob racketeering both by Board members and in many of its joint councils and locals, the IBT civil RICO suit would not have been necessary. Had the Executive Board acted, it would have borne the expenses, or otherwise distributed the costs, of its efforts through its affected components. We believe, in the first instance, the labor organization having the legal responsibility to clean up the problem of racketeering -- usually the parent union -- should pay the costs. Moreover, in the civil RICO cases that we have filed so far involving the Teamsters and Laborers unions, the parent Internationals could easily have afforded the cleanups.

Alternatively, one might expect the government to pay the costs, on the theory that our lawsuits have sought the relief incurring such costs. This is a little bit like asking the constable to pay the hospital bill for the individual who has just shot himself in the foot. But if this result is the Congress' desire, it is clear that our current budget and operating procedures are inadequate. Before such a burden is placed on the government, it should be considered whether, in the future, our agressiveness in pursuing racketeers through civil RICO cases will be crimped if we find that the Department's fiscal resources on the eve of filing might not support a much-needed trusteeship. But we know this problem is not easily solved. We will continue to work with the Congress in finding a solution fair to all partiies.

Civil RICO: Limitations and Expectations

1. Limitations

There appear to be two camps with regard to the government's use of civil RICO -- one camp views civil RICO as a panacea; the other views it as an inherently inappropriate tool. The truth, of course, lies somewhere in the middle. Civil RICO is not a magical antidote to organized crime, labor racketeering, or any other category of criminal behavior. It does, to be sure, offer several powerful advantages over criminal RICO -- reduced standard of proof, non-jury trial for equitable actions, broad discovery with adverse inferences from assertion of the fifth amendment, availability of extremely flexible relief and long-lasting relief, and others. As is well illustrated by my earlier discussion of recent cases, civil RICO can have a powerful impact against deep-rooted mob activity in labor unions. However, civil RICO also has several distinct disadvantages vis-a-vis criminal prosecutions. We cannot use the grand jury to investigate a civil case, of course, and there are sharp restrictions on the use of existing grand jury information for civil purposes. The civil investigative demands available under RICO can obtain only documents, not testimony, and they are subject to extensive court challenges. Also, the broad discovery in civil suits works both ways: defendants may seek access to confidential informant files and other sensitive materials through civil discovery. Our criminal prosecutors, who are familiar with the conduct of racketeering investigations, are generally unfamiliar with civil procedure, and our civil attorneys are not used to investigating organized crime and labor racketeering.

Even when we decide to go forward with a civil RICO action, and we manage to overcome the difficulties sufficiently to prevail on the merits, the battle is not won. In a criminal case, when we obtain a conviction and sentence, our job is essentially done. When the court grants the requested relief in a civil RICO suit for equitable relief, however, our job in many ways is just beginning. As we have learned particularly from the Local 560 case, which was decided after a trial rather than by consent judgment (except for a few defendants who settled prior to trial), the union's members do not necessarily welcome a court-appointed trustee with open arms. The trustee, with appropriate assistance from the government, must try to remove and fend off criminal influences that may have been part of the scene for years, or even decades. As I noted earlier, mob-connected union officials can be very popular with the rank and file, even though they have deprived the members of a meaningful voice in union affairs. Thus, the trustee may have to take very firm measures to achieve and maintain a clean union. The difficulty in doing so is hard to exaggerate. Perhaps the most difficult aspect of the trustee's task is implementing effective clean-up measures without interfering unduly in the day-to-day operation of the union or taking steps that deny the members or officers their basic rights as participants in the labor movement.

2. Expectations

The Subcommittee may be pleased to know that we expect to expand our use of civil RICO, not only in the area of labor racketeering, but in other areas, such as defense procurement fraud. If we can obtain legislative clarification of our ability to recover treble damages, it may be appropriate in some cases for us to retrieve illegally obtained funds from those who criminally abuse the procurement process. We will also explore other appropriate areas for civil RICO actions.

In addition, as a result of our ongoing learning process, we have taken a number of steps to improve the effectiveness of our civil RICO program. First, we have had in place for several years an extensive program to educate the government's criminal and civil attorneys about theoretical and practical issues under civil RICO. In 1984, we presented a survey of civil RICO at a national conference on organized crime sponsored by the Attorney General's Advocacy Institute. We have prepared a much more extensive training program on civil RICO exclusively, also to be sponsored by the Attorney General's Advocacy Institute. We have prepared and distributed to all United States Attorneys and Strike Forces a comprehensive manual on the use of civil RICO. We have fully supported, and contributed to, an in-depth National Institute of Justice study of the Local 560 trusteeship, which, when completed, should provide valuable insights into the workings of the trusteeship process and guidance for future cases. We also have a policy of affirmatively looking for potential applications of civil RICO whenever we review a proposed RICO prosecution or any Strike Force prosecution. Under the provisions of the Anti-Drug Abuse Act of 1988,[41] we are in the process of selecting and hiring up to 19 attorneys and support personnel who will be dedicated to civil enforcement and asset forfeiture matters.

Despite its inherent theoretical and practical limitations, we view civil RICO as an integral part of our overall program to combat organized crime, labor racketeering, and other forms of entrenched criminal conduct that corrupts legitimate organizations. Although our efforts in this regard have begun slowly, now that we have received some favorable precedents and helpful guidance from the courts we expect to continue to apply the civil provisions creatively. We expect that labor racketeering will remain the principal object of our efforts, but we will also actively look for useful applications in procurement fraud and in other cases involving the corruption of private enterprises.

We will continue our program of educating our prosecutors in the theory and practice of civil RICO suits. We will carefully study the record of these hearings, particularly the testimony of the trustees, so that we can improve our performance in assisting in the post-judgment implementation of equitable relief. We will continue to seek passage of pending legislative proposals that would enhance the ability of the government and trustees to use civil RICO to its fullest potential. We are firmly committed to the continued and expanded use, in appropriate cases, of this powerful and flexible tool.

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[41] Pub. L. No. 100-690, T. I, § 1054, 102 Stat. 4190 (Nov. 18, 1988).

That concludes my prepared remarks, Mr. Chairman. I would be happy to address any questions you or the Members of the Subcommittee may have.

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

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Ms. Eleanore J. Hill
Chief Counsel
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Ms. Hill:

This letter responds to your letters of April 28, 1989, and of May 22, 1989 to Edward S.G. Dennis, Assistant Attorney General, Criminal Division. Enclosed are the answers of Assistant Attorney General Dennis to the Additional Questions for the Hearing Record provided in the April 28, 1989, letter.

With respect to the copy of Mr. O'Sullivan's letter to Senator Nunn, which was enclosed in your May 22, 1989, letter, the Department appreciates the views of Mr. O'Sullivan as it considers the proposal to consolidate the Strike Force Offices with the United States Attorneys' Offices to form Strike Force Units within the United States Attorneys' Offices. The Department believes that certain features of the proposal now being considered address the concerns raised in Mr. O'Sullivan's letter. I note, specifically, that in response to the enclosed answers numbered 19 and 20, Assistant Attorney General Dennis describes the establishment of the Organized Crime Council and the continuation of the current case management system as two facets of the proposal that will ensure that the national scope and mission of the Strike Forces remains intact.

I trust that you find this response satisfactory.

Sincerely,

Carol T. Crawford

Carol T. Crawford
Assistant Attorney General

1. **Question**: During the course of a criminal RICO investigation, using the enterprise theory of investigation, is it possible to parallel the criminal investigation with a civil RICO investigation? If not, what are the problems with this approach?

Answer: While it is theoretically possible to conduct parallel criminal RICO and civil RICO investigations, it is very difficult to do so in practice. Rule 6(e) of the Federal Rules of Criminal Procedure prohibits government attorneys conducting a grand jury investigation from disclosing matters occurring before the grand jury, even to other government attorneys, except as authorized by the rule. Consequently, government attorneys conducting a civil RICO investigation would be required to segregate themselves and their staff from the grand jury investigation and to continuously document this segregation. As a result, parallel investigations undoubtedly would result in a duplication of effort and the possibility of contamination of the civil investigation by the inadvertent exposure to grand jury material. It is generally more economical and prudent to follow up a criminal prosecution with a civil RICO investigation. If there has been a trial in the criminal case, all of the trial evidence will be available to the attorneys in the civil case, thereby avoiding duplication of effort. Moreover, proceeding first with the criminal trial has the virtue, where convictions result, of creating collateral estoppel or issue preclusion against some of the defendants in the subsequent civil RICO action.

Proceeding with parallel investigations could also create the risk of alerting the targets of the criminal investigation, especially if preparation for the civil suit involves civil investigative demands.

Finally, even if parallel investigations were conducted, the civil suit might not proceed while the criminal case was pending because the civil suit could subject the government to discovery by the defendants. In some cases, however, where these negative factors are not of great concern, it may be desirable to conduct parallel criminal and civil investigations.

2. Question: The settlement agreement in the IBT suit does not impose a trusteeship, as originally sought by the Government, nor does it remove from office those IBT officers which the Government originally sought to remove. On the other hand, the agreement does, for the first time, impose a system of court-appointed supervision over the IBT. Are you pleased with the terms of the settlement agreement.

Answer: Although a trusteeship was not imposed and not all of the defendants named in the lawsuit were removed from office, twenty one of the twenty-six individual defendants in the case whom the Government sued as LCN members or associates have been permanently enjoined from associating with the Teamsters Union or its affiliated organizations and five General Executive Board members have left or will leave office. Although we are fully cognizant of the Government's responsibility to continue its efforts to ensure that all levels of the Teamsters Union are ultimately freed of the control or influence of organized crime, we believe that the settlement on March 14, 1989, of the Government's civil RICO action against the Teamsters Union and members of the Union's General Executive Board significantly furthered that goal.

In addition to avoiding proceedings which undoubtedly would have required years of litigation by the Government and the delay necessarily attendant with the enforcement of reforms imposed by a judgment after trial, the settlement has the great advantage of invoking the Union's own procedures in order to "discipline" any "corrupt and dishonest" officer or employee within the Teamsters Union or any of the Union's subordinate organizations such as local unions, joint councils, and state or area conferences. In regard to such discipline, which may include removal from office, and the imposition of trusteeships over Teamster subordinate organizations, the court-appointed Administrative and Investigative Officers will be authorized until 1992 to exercise the authority of the General President and the General Executive Board under the Teamsters Constitution and "Title 29 of the United States Code."

The Administrative Officer will be able to veto expenditures and appointments to union positions made by International Union officials if he believes that such expenditures or appointments further an act of racketeering or the association of the union with organized crime figures. Moreover, the court-appointed

Election Officer's powers are aimed at ensuring rank and file participation in union officer elections beyond those rights guaranteed by current federal law. In other words, the settlement procedures are designed to further the goals of the federal law which guarantee democratic participation by union members in their organization's affairs and concerted activity by their freely chosen representatives in labor-management relations without undue Governmental interference. To the degree that rank and file union members recognize and accept that purpose, the Government's efforts to rid the union of organized criminal elements more likely will be supported by them and thereby enhanced beyond what might have been achieved by a judgment imposed after trial.

3. Question: To what extent was the Criminal Division of the Department of Justice in Washington involved in the decision to settle the IBT suit? Was the decision made in the Southern District of New York or in Washington?

Answer: Although the decision to open settlement negotiations was made by the United States Attorney's office for the Southern District of New York, United States Attorney Bonito Romano and Deputy United States Attorney Louis Freeh discussed drafts of the proposed settlement with attorneys in the Organized Crime and Racketeering Section, Criminal Division. Before the Attorney General endorsed the settlement on March 13, 1989, United States Attorney Romano and Associate United States

Attorney Aaron Marcu discussed the final proposals with Assistant Attorney General Edward S.G. Dennis, Jr., Criminal Division.

4. Question: To what extent was the FBI involved in the decision to settle the IBT suit? Was the FBI consulted prior to the signing of the settlement agreement? Did the FBI support the decision to settle the suit?

Answer: Although the FBI was not consulted for its views on the specific terms of the negotiated settlement, the Bureau was generally informed of the agreement's provisions prior to the settlement and supported the settlement as reflected in the statement of Executive Assistant Director Floyd I. Clarke before the Committee on April 12, 1989.

5. Question: What type of support are the Department of Justice and the FBI preparing to provide to the IBT administrators? In view of the importance of this case, are you committed to working with the court-appointed administrators.

Answer: The Department of Justice and the FBI are committed to working with the IBT administrators and will provide materials compiled in preparation of the Government's lawsuit and other relevant information which is not otherwise privileged or confidential.

6. Question: Do you have any specific recommendations regarding civil RICO or trusteeships?

Answer: With respect to civil RICO in general, we have recommended legislation to make it clear that the burden of proof for all RICO suits by the United States is a preponderance of the evidence and that the United States is entitled to recover treble damages for injuries to its business or property.

7. **Question:** General President William J. McCarthy and General Counsel James Grady, testifying last week on behalf of the International Brotherhood of Teamsters, suggested three changes to the RICO statute, specifically:

- an amendment barring the imposition of a trusteeship on any labor union;
- an amendment barring pre-trial imposition of such remedies prior to a full evidentiary hearing, held on the merits of the underlying allegations; and
- an amendment barring the Government from preventing the payment of attorney's fees by a Union to defend either the Union itself or its officers, members, etc.

Do you support these amendments? Why or why not?

Answer: (a) We oppose an amendment of RICO which would bar the imposition of a trusteeship on a labor union.

Answer: (b) We oppose the proposed amendment to bar the pre-trial imposition of trusteeships on labor unions until there has been a full hearing on the merits of the underlying allegations.

The imposition of a trusteeship is an equitable remedy, to be granted by the court in appropriate circumstances after weighing the competing interests. Although it might be an unusual situation that would call for the imposition of any form of trusteeship prior to a trial or full hearing, there very well may be situations in which the threat of continuing damage to the union is such that some immediate equitable relief is required. In our view, this balancing process should be left to the court's broad discretion in the exercise of its equitable powers. An amendment to RICO limiting the availability of pre-trial equitable relief would run counter to the principles of equity and would unduly restrict the court's ability to implement the broad Congressional intent underlying the civil RICO provisions. In fact, a review of the progress of the Section 1964(a) suits filed by the government to date demonstrates that federal judges have not imposed significant pre-trial restraints on the defendants.

Answer: (c) We oppose an amendment of RICO which would bar the Government from preventing a labor union from paying attorneys' fees for the defense of a union official in criminal or civil RICO litigation pursued by the United States. We believe that the law under the Labor-Management Reporting and Disclosure Act permits unions to reimburse their officials' legal expenses if the litigation involves their performance as union officials and where other union officials not charged in the litigation approve the expenditure with a good faith belief that the underlying charges of misconduct against the litigant official are without merit and that the expenditure would not be detrimental to the labor organization. Such a good faith belief in the context of RICO litigation when the official is charged with a pattern of racketeering crimes ordinarily would require that the official be exonerated after a disposition of the charges on the merits.

With respect to Senator Nunn's expressed concern that certain union officials might be willing to settle RICO litigation because their attorneys' fees would be permitted to be paid by the officials' organizations, we note that as in any civil litigation which results in a negotiated settlement attorneys' fees may be the subject of negotiation. However, it is our experience in civil RICO cases being pursued by the Department of Justice that defense counsel are invariably well-prepared and highly experienced attorneys. Attorneys of such caliber simply do not settle cases for any reason other than the best interests of their clients and the substantive merits of the settlement terms.

8. Question: Mr. Dennis, does the Department of Justice or the U. S. Attorney's Office take any steps to familiarize other Government agencies with the establishment of a trusteeship, thereby clearing the way for Government assistance to that trusteeship?

Answer: Yes. One of our routine steps in preparing and litigating civil RICO cases is to alert other government agencies which either might be called upon for assistance or be might be affected by the equitable remedies sought by the government. Often, the Department of Labor is the principal agency involved, since the bulk of our civil RICO efforts to date have emphasized labor racketeering. To our knowledge, federal prosecutors have done a good job of alerting pertinent agencies of the possibility of court-imposed trusteeships within their domains.

9. Question: Mr. Dennis, you have mentioned the valuable assistance of the FBI in the preparation of these civil RICO suits. To what extent was the Department of Labor's Office of Labor Racketeering involved in the preparation of these suits?

Answer: The Inspector General's Office of Labor Racketeering (OLR), U. S. Department of Labor, assisted the preparation of the civil RICO action against the IBT by assembling information from Labor Department files and court records at various locations around the country prior to the filing of the lawsuit. Extensive assistance from OLR personnel was provided to the Newark Strike Force in connection with both the preparation and conduct of the civil RICO action against Teamsters Local 560. OLR investigators participated in the investigation which led to the conviction of Carmine Romano and other officials of Seafood Workers Local 359. The criminal prosecution supported in part the subsequent civil RICO action against Local 359 and members and associates of the Genovese Organized Crime family in connection with the operation of the Fulton Fish Market in New York City. The civil RICO lawsuit against Roofers Local 30/30B and thirteen of its officials was grounded on both evidence of a longstanding campaign of violence by Roofers union officials against employers in the Philadelphia area, which was compiled by OLR investigators and Pennsylvania state law enforcement authorities, as well as evidence developed by the FBI in connection with the successful criminal prosecution of the union's officials in United States v. Stephen Traitz, et al. (E. D. Pa.).

10. Question: Aside from the Office of Labor Racketeering, to what extent have you worked with the Department of Labor in preparation of these cases? Have you been satisfied with their cooperation?

Answer: In addition to providing advice and documents from its files for use by litigators in the IBT civil RICO action, representatives of the Office of Elections, Trusteeships, and International Union Audits, within the Office of Labor-Management Standards (OLMS),U. S. Department of Labor, conferred with Justice Department personnel concerning the litigation against Teamsters Local 560 and advised the court-appointed trustees in planning the Local 560 officer election held in December 1988. The same office assisted the court-appointed trustee in supervising the February 1989 officer election at Teamsters Local 814 in which more than three times more union members participated than had done so in any prior election at that local union. OLMS has also developed an election plan in consultation with the United States Attorney's office in Philadelphia, Pennsylvania and the court-appointed liaison officer in connection with the upcoming June 1989 election of officers at Roofers Local 30/30B. We are satisfied with OLMS's cooperation in these lawsuits given the restrictions imposed on the U. S. Department of Labor's actions in regard to election matters by the Labor-Management Reporting and Disclosure Act.

11. Question: Mr. Dennis, what is the role of Main Justice in a civil RICO action filed by a U.S. Attorney or a Strike Force office? Do the decisions to file these suits have to be approved in Washington?

Answer: Every RICO action by the United States, civil or criminal, must be approved by the Department of Justice in Washington, under written guidelines that went into effect in 1981. Any prosecutor proposing to seek a RICO indictment or to file a civil RICO complaint must first submit to the Criminal Division's Organized Crime and Racketeering Section a draft of the proposed charging document and a detailed memorandum explaining the facts of the case, the legal theory of the action, and the policy justification for using RICO. The submission is thoroughly reviewed by experienced attorneys at at least two levels of responsibility. The review delves deeply into the substance of each proposed RICO action; in virtually every instance, the prosecutor is required to make substantial changes to the proposal in order to conform to the legal and policy requirements for charging RICO violations.

12. Question: Mr. Dennis, in a statement for the record, Peter R. Ginsberg, Assistant United States Attorney for the Eastern District of New York, listed the following recommendations for amendments to the RICO statute:

- an amendment specifying divestiture/disgorgement as an equitable remedy available in the RICO statute, where the ill-gotten gains would be placed into a fund for victims of the wrongful activity;

- an amendment giving a trustee the statutory authority to sue for equitable relief;

- an amendment specifying restitution as equitable remedy available in the RICO statute;

- an amendment specifying the United States, when monetarily injured, as a party able to invoke RICO's damage provision;

- an amendment lengthening the statute of limitations regarding legal relief allowed by RICO;

- an amendment to the Federal Rules of Criminal Procedure creating an exception to Rule 6(E) to allow Government attorneys to share Grand Jury information in regard to civil RICO actions;

- an amendment to include bank fraud as a predicate offense under the RICO statute; and

- an amendment specifying that Federal Rules of Civil Procedure are applicable to section 1964 of RICO.

Do you support these amendments? Why, or why not?

Answer: As Mr. Ginsberg made clear in his statement, the opinions he expressed to the Subcommittee are solely his personal views; they do not represent official Department of Justice policy. Some of Mr. Ginsberg's recommendations for RICO legislation do, in fact, coincide with Department policy -- specifically, the recommendations of amendments to make it clear that the United States can recover treble damages for a RICO injury, to establish a suitably long limitations period for government RICO suits, and to permit government attorneys to share grand jury information with other government attorneys for use in civil cases.

Mr. Ginsberg also proposed amendments to establish unreimbursed divestiture and restitution as equitable remedies under RICO; to permit RICO trustees to obtain equitable relief under the statute; to include bank fraud (18 U.S.C. § 1344) as a RICO predicate offense; and to specify that the Federal Rules of Civil Procedure are applicable to civil RICO actions. Because Mr. Ginsberg's statement was not submitted to the Department of Justice in Washington for review, we have not yet conducted a review of these particular proposals. Although some of them may have merit, we need to explore their implications in greater depth before formulating an official position. Accordingly, we have no opinion to express with respect to the latter group of legislative recommendations at this time.

Finally, let me emphasize again that Mr. Ginsberg's statement expressed only his personal views. Some of the opinions in his statement, although not the matters specifically mentioned in your question, are contrary to stated Department of Justice policy. For example, at page 33 of his statement, Mr. Ginsberg opposes the prior-conviction approach to limiting private civil RICO suits, whereas the Department supports this approach. To the extent that this and other statements contradict Department policy, we do not endorse them.

13. Question: To what extent was the Department of Labor involved in the decision to bring the Government's civil RICO suit against the IBT? Did Justice consult with Labor on that decision? Was Labor supportive of the decision to bring the suit? Why or why not?

Answer: The Inspector General's Office of Labor Racketeering was consulted concerning the effort to commence a lawsuit against the IBT well in advance of the filing of the complaint. Representatives from the United States Attorney's Office, Southern District of New York, and the Criminal Division met with the Secretary of Labor and the Solicitor of Labor in order to brief them concerning the scope of the civil RICO action prior to the filing of the complaint in June 1988. Prior to that time changes in the draft complaint had been made following contact with Labor Department personnel who had been consulted with respect to the effect that the filing might have on litigation being conducted by the Department of Labor. The Secretary of Labor was generally supportive of the action and provided advice concerning the scope of relief which the Government sought to impose.

14. Question: In the early 1980's, this Subcommittee found a lack of interest in criminal prosecutions and law enforcement investigations at the Labor Department. Do you feel that that problem has been solved? Do you receive adequate support in criminal investigations from the Department of Labor in terms of both referrals and responses to requests for information and assistance?

Answer: We are satisfied that the problem which developed in the late 1970's of the Labor Department's inability to furnish adequate support for the Organized Crime and Racketeering Strike

Force program has been successfully overcome by augmenting the number of investigators assigned to the Strike Force program as part of the Inspector General's Office of Labor Racketeering (OLR). We also understand that the Office of Labor-Management Standards has greatly increased its commitment of resources to the investigation of embezzlement and other crimes affecting the internal operation of labor unions during the past several years. The Pension and Welfare Benefits Administration (PWBA) has conducted investigations in recent years which have resulted in significant prosecutions of corruption with respect to the operation of employee pension and welfare benefit plans. It would seem, therefore, that if additional resources were devoted by the Labor Department to criminal investigations in the employee benefit plan industry, more such prosecutions would result. Although one of OLR's top priorities is the investigation of corruption and racketeering in connection with employee benefit plans, we believe that PWBA personnel who deal with employee benefit plan matters on a continuing basis and who are closely involved with the Labor Department's regulatory program in that area have much to contribute to the deterrence of benefit plan abuse which can be obtained by criminal investigation and prosecution. Unfortunately, PWBA is hard pressed to maintain both a civil and criminal enforcement program involving the integrity of almost five (5) million employee benefit plans which are subject to the Employee Retirement Income Security Act with fewer than 200 investigators nationwide.

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15. Question: Can you explain the reason that the Department would consider abolishing or otherwise merging the Strike Force system? Can you tell us what the tangible benefits are from abolishing or merging the Strike Forces? Have there been any studies commissioned to show these benefits? If so, please provide them to the Subcommittee.

Answer: The Department is not considering abolishing the Strike Forces, rather, there is currently a proposal to consolidate the Strike Force Offices with the United States Attorneys' Offices to become Strike Force units within those offices. The benefit that this consolidation is most intended to generate is the elimination of any turf battles in the field and the coordination of all the law enforcement efforts in a particular district. Further, the local influence and personal ties that a United States Attorney forges in his or her district will aid in the enforcement effort of the Strike Forces. Also, merging the offices will encourage a United States Attorney to dedicate his or her own resources to an organized crime matter in addition to the Strike Force resources, because he or she will know that additional resources are needed, and will not be seen to be intruding on the mission of the Strike Force Office in the district. There has been no specific study to measure the financial benefits of the proposed consolidation, however, the elimination of duplicative support services inevitably will be more cost-effective and efficient in the long term.

I note that although the GAO stops short of recommending that the merger occur, it notes that the mission of the Strike Forces has been frustrated at times by the very turf battles that the consolidation is intended to eliminate.

16. Question: I understand that the entire Criminal Division has recently undergone an extensive internal review and evaluation, conducted by teams from within the Division, with an eye toward extensive reorganization. Is it true that the Organized Crime Section was highly rated vis-a-vis the other Sections? What reorganization is planned or under consideration as a result of this study? Would you please provide the Subcommittee with a copy of the study?

Answer: At my request, a few teams of Criminal Division attorneys conducted an internal review of the Division. I envisioned this as a management tool for myself in determining what were the major administrative and substantive issues facing the Criminal Division. The review has been helpful in directing management attention to areas of immediate need, such as resource allocations. Some of the observations may be helpful for longer term planning. The review was not undertaken, however, as a prelude to restructuring the Criminal Division. The need for any organizational changes is being evaluated on a continuing basis. At present, any restructuring proposals, other than the proposal to consolidate the Strike Force offices with the United States Attorneys' Offices, are too preliminary for discussion outside the Department.

17. Question: The U.S. General Accounting Office, in a report prepared for this Subcommittee, advises that in February, 1987, the Attorney General's Advisory Committee, composed of U.S. Attorneys, proposed that same type of merger which you are now recommending. Your predecessor, Assistant Attorney General William Weld, who is also a former U.S. Attorney, nevertheless opposed the merger, in large part because experience indicated to him that U.S. Attorneys would find it difficult to keep individual prosecutors assigned to organized crime cases, which can take years to investigate and

prosecute. Why is the Department now revisiting this issue? How would Justice assure the assignment of the same prosecutors to long-term organized crime cases if a merger occurred?

Answer: Because the current proposal envisions the creation of Strike Force units within each of the affected United States Attorneys' Offices, I believe that the fear that you ascribe to Mr. Weld will be largely alleviated. Individual attorneys assigned to the Strike Force Unit would likely remain in the Strike Force Unit, providing the continuity and experience that have been two of the traditional arguments in favor of Strike Force Offices. I believe that the creation of such units would be useful, moreover, to counteract the "burn-out" that attorneys may feel in U.S. Attorneys Offices, and would permit attorneys to transfer into a Strike Force unit or out of a Strike Force Unit without severing the professional ties that he or she has developed.

Because personnel changes in the units will necessarily be reported back to the Organized Crime Council, which will be created to superintend the national effort against organized crime, there will be an institutional check to determine if personnel changes are serving to dissipate the experience now preserved in the Strike Force Offices. It is my belief that the experience level will not diminish in the proposed consolidation.

The Justice Department is reconsidering the proposal to consolidate the offices because there is widely the belief that the earlier proposal was deferred, not rejected, and that the time has come to re-evaluate the management issues in the war on organized crime.

18. Question: GAO has advised us that on January 20, 1988, the Attorney General required that within 90 days, each U.S. Attorney in a district where a Strike Force is located must file a plan to combat organized crime in that district. GAO has also told us that as of January, 1989, fewer than half of the U.S. Attorneys had filed these plans. Will the U.S. Attorneys be capable and willing to take up the fight against organized crime if they are either unwilling or unable to file their required strategies with the Attorney General.

Answer: U.S. Attorneys file statistics each month concerning many of the matters that were intended to be covered by the plan called for in the Attorney General's previous request. The proposal currently before the Department envisions the creation of an Organized Crime Council, which will receive and coordinate the various plans submitted by the U.S. Attorneys to formulate and to monitor the national strategy in the war on organized crime. Obviously, if the Council does not receive a proposal from an affected U.S. Attorney, the Council will follow up on obtaining that local plan. I have no doubt that the U.S. Attorneys are both capable and willing to take up the fight against organized crime.

19. Question: Kurt Muellenberg, the former Chief of the Organized Crime program and former Inspector General of GSA, has written expressing his strong opposition to a merger. He states in his letter:

> In my view, the Organized Crime section represents the best example of a career prosecution program found in the Federal system today. Many of the attorneys have 10 or more years of specialized experience and, perhaps more importantly, they have the full confidence of the major law enforcement agencies, which is so critical when investigations can take two or three years to complete. With the possible exception of a large U.S. Attorney's Office like the Southern District of New York, that experience level is not easily found. More importantly, it is essential to maintain a program that is not subject to the differing priorities set by 94 U. S. Attorneys.

Would you respond?

Answer: There are three points in Mr. Muellenberg's letter that should be addressed. First, the proposal being considered will tend to nurture the experience of Strike Force attorneys by establishing in each of the United States Attorney's Office a Strike Force unit to carry on the mission of the Strike Force Office. There is simply no reason to anticipate that attrition from those units would be any greater than the attrition experienced from the Strike Force Offices in the last few years. In fact, placing the Strike Force Units within the U.S. Attorneys' Offices, which would make the Strike Force attorneys' salaries equal to Assistant U.S. Attorneys' salaries, would tend to eliminate the differential now experienced in which a Strike Force attorney can be lured to a U.S. Attorney's Office by a higher salary for comparable work.

While the Strike Forces have the confidence of the FBI, so do the U.S. Attorneys' Offices that will be establishing Strike Force units. I do not anticipate any disturbance in the relationship between the FBI and the Strike Force units.

With respect to the concern that the Strike Forces would be subject to the varying agendas of the U.S. Attorneys, the Organized Crime Council will be created to review the workload and the mission of each of the Strike Force units in the U.S. Attorneys' Offices. Further, the case initiation approval system currently in place will be maintained so that each case that is initiated will be reviewed by the Organized Crime and Racketeering Section to ensure that the mission of the Strike Forces is not dissipated. The maintenance of the case management system and the oversight of the Organized Crime Council will ensure that the Strike Forces are not subject to the differing priorities of the U.S. Attorneys.

20. Question: Mr. Muellenberg notes that during his tour of duty as Chief of the Narcotics Section in 1976,

> ... about 40 prosecutor positions became available to work on major narcotics conspiracy cases. After some debate about the allocation of these positions and their supervision, they were set up as units in selected U.S. Attorneys Offices. I remember quite clearly that the attorneys in one of those offices were quickly blended into the regular workload any U.S. Attorney has to deal with. I complained to then Assistant Attorney General Thornburgh, who told me in so many words that each U.S. Attorney has responsibility to run his office, and we would not interfere. If the Strike Forces are merged, the same thing may happen. Indeed, I believe that potential for this to happen is high, resulting in a significant dilution of this effort.

What procedure will you employ to prevent this from happening?

Answer: The maintenance of the case management system, including the approval of the Organized Crime and Racketeering Section for all case initiations, and the establishment of the Organized Crime Council to monitor the national effort against Organized Crime will reduce the possibility that any dilution of the Strike Force effort could occur.

21. Question: The FBI initiates more than half of the Strike Force cases, has a comprehensive organized crime data base, and organizes its own task forces to investigate organized crime. Has the Department consulted with the FBI concerning the merger?

Answer: Although I am aware of the informal opinion of many FBI personnel concerning the possible consolidation of the Strike Forces, there has not been official consultation with the FBI on this management matter. Because the consolidation does not presage a diminution in the effort against organized crime, nor signal a dilution of the effort of the prosecutors involved, consultation is not necessary, in my mind, to determine how the Strike Force Units, rather than the Strike Force Offices, will report on their activity. The current proposal is essentially a proposal for management change, a proposal designed to enlist the U.S. Attorneys in a more concentrated war on organized crime.

U.S. Department of Justice

Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

OPENING STATEMENT

OF

FLOYD I. CLARKE

EXECUTIVE ASSISTANT DIRECTOR

FEDERAL BUREAU OF INVESTIGATION

BEFORE

THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

WASHINGTON, D.C.

APRIL 12, 1989

Mr. Chairman, distinguished members of the Subcommittee, as the Executive Assistant Director (Administration) of the FBI and as an American citizen, I appreciate your continued interest, assistance, and personal efforts in combating the problems of organized crime and its influence in our society. In my prior position as Assistant Director of the Criminal Investigative Division, I was able to observe firsthand the significant impact your personal attention to this national crime problem has contributed to assisting our Organized Crime Program. When Director Sessions appeared before this Subcommittee on April 11, 1988, he presented a historical narrative beginning with Joseph Valachi's public exposure of La Cosa Nostra (LCN) and highlighting 25 years of progress made in our war against organized crime. In his previous testimony, he reviewed the many legislative enactments of the past 25 years that have been directed against organized crime and detailed the ways in which the FBI has used that legislation in numerous successful investigations. He spoke, in particular, of the Racketeer Influenced and Corrupt Organizations Act of 1970, a statute commonly referred to as RICO, as providing the most important prosecutive tool for the FBI when confronting a structured criminal organization.

He emphasized four key ingredients responsible for the FBI's highly publicized string of investigative successes against the LCN. Those ingredients are the expanded use of the civil as well as criminal provisions of the RICO Statute, the existence of the Witness Security Program (WSP), the utilization of court-authorized electronic surveillances, and the task force concept of combining the resources and expertise of Federal, state, and local law enforcement agencies. Today, I will address one of those ingredients, the civil section of the RICO Statute, codified as U.S. Code, Title 18, Section 1964, and publicized as civil RICO.

My presentation will include examples of successful civil RICO prosecutions as well as the FBI's role in postjudgment proceedings wherein the Government has sustained its burden of proof and court-ordered remedial relief has been imposed. Based upon this experience, I will identify to the Subcommittee areas of concern for the FBI regarding its role in postjudgment administration of court-imposed trusteeships initiated pursuant to civil RICO relief.

Before I begin my presentation, I will qualify my remarks. I am here today to address civil RICO as it applies to criminal investigation, criminal prosecution, and its use against the LCN. My remarks today do not address use of civil RICO by private and corporate litigants seeking treble damages pursuant to Section 1964(c). As you no doubt are aware, there are presently initiatives before the Congress to modify the language of civil RICO to address the concerns of the business and legal communities regarding those alleged abuses by private and corporate litigants.

The FBI, as well as the Department of Justice, reviews the necessity for the use of civil RICO before a complaint is filed. This review has resulted in the judicious and restrained use of civil RICO. Its use has been primarily limited to removing the presence of LCN, an organized crime group, from labor unions or legitimate businesses and thereby restoring union democracy and free market competition.

The concept of applying the principle of antitrust law to criminal infiltration and monopoly of legitimate businesses, now embodied in civil RICO as enacted by the Organized Crime Control Act of 1970, first appeared in 1951, when the Kefauver Committee disclosed the problem of organized crime's infiltration into legitimate business. The Committee reported, "One of the most perplexing problems in the field of organized crime is presented by the fact that criminals and racketeers are using the profits of organized crime to buy up and operate legitimate business enterprises." The Committee report continues, "In most cases, these are enterprises in which gangster methods have been used to obtain monopolies so that their vicious practices taint otherwise legitimate business.... They are able to compete unfairly with legitimate businessmen because of their accumulation of cash and their vicious methods." By 1960, organized crime infiltration of labor unions had been documented by the McClellan Committee. This Committee also exposed the organized crime structure of the LCN. The infiltration of legitimate business and labor unions by organized crime was publicly exposed and well documented when the President's Commission on Law Enforcement and Administration of Justice reported in 1967, methods used by organized crime to infiltrate legitimate business. In its report entitled The Challenge of Crime in a Free Society, it provided insight into what was possibly the origin of RICO by suggesting a multilevel approach, criminal prosecution, and civil litigation for law enforcement by observing that "Law enforcement is not the only weapon that governments have to control organized crime. Regulatory activity can have a great effect..." The Commission, in support of its recommendation, noted the easier civil standard of proof, the possibilities of court-ordered discovery procedures, and the value of antitrust-type remedies.

In 1967, former Senator Roman L. Hruska first proposed legislation, referred to the Senate Committee on the Judiciary, to apply antitrust-type remedies to organized crime activities. Subsequently, in 1969, the proposed legislation, introduced by Senator Hruska in 1967 was combined with Senate Bill 30, introduced by Senator John L. McClellan, and was enacted and signed into law by the President as the Organized Crime Control Act of 1970.

The Congress in its "Statement of Findings and Purpose" for the act declared, among other things, "Organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the use of force, fraud, and corruption...their money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and corrupt our democratic processes...organized crime continues to grow because...the sanctions and remedies available to the Government are unnecessarily limited in scope and impact. It is the purpose of this act to seek the eradication of organized crime in the United States by strengthening the tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime."

What new remedies had Congress enacted? The heart of civil RICO is in the four subsections of U.S. Code, Title 18, Section 1964. Section 1964(a) gives Federal District Courts jurisdiction to grant injunctions and other equitable relief in order to prevent and restrain violations of Section 1962, which is RICO's substantive predicate crime section. Courts are authorized to provide relief by issuing appropriate orders, including, but not limited to:

1. Ordering any person to divest himself of any interest in an enterprise;
2. Imposing reasonable restrictions on future activities or investments of any person, including prohibiting the person from engaging in the same kind of endeavor as the enterprise engaged in;
3. Ordering dissolution or reorganization of any enterprise.

Section 1964(b) grants authority to the Attorney General to institute civil RICO for equitable relief and provides that the courts may enter restraining orders or take other appropriate action pending final determination of the case. This provision for pretrial relief is extremely important because it allows the Government to obtain relief from further RICO violations immediately upon filing a complaint.

Section 1964(c) provides that any person injured in his business or property by reason of a violation of Section 1962 may sue and recover treble damages, costs, and reasonable attorney's fees.

Section 1964(d) provides that a final judgment or decree rendered in favor of the United States in any criminal RICO proceeding estops the defendant from denying the essential allegations of the criminal offense in a subsequent civil RICO case brought when civil RICO cases are filed following criminal prosecution. Basically, defendants are prevented from contesting any of the factual allegations that were proven in the criminal proceedings. Therefore, in a civil RICO suit based upon the same allegations as those in the criminal RICO prosecution, the Government should prevail on a motion for summary judgment against defendants convicted in the criminal proceedings.

Successful litigations using civil RICO allow for remedial judicial action that attacks the economic underpinnings of organized crime. Under traditional criminal proceedings, organized crime figures have been successfully prosecuted and sent to jail. The criminal enterprise, however, continued to flourish under new leadership, leading to the observation that organized crime, like the mythological Hydra, merely sprouts a new head and conducts business as usual. Civil RICO seeks to disrupt and eliminate this succession.

Judicial action sought under civil RICO is intended to be remedial rather than punitive. This distinguishes civil RICO from criminal RICO, which addresses only the actions and profit of crime. Neither the substantive criminal section nor the punitive forfeiture section addresses the influence or sustained presence of organized crime in American industry and, ultimately, the American economy.

Civil RICO is a powerful remedy, and we must take care to ensure that it is employed carefully and only in appropriate cases. Indeed the data indicates that civil RICO has been administered in a restrained fashion. Since the inception of civil RICO, our research shows that the Government has relied on it only 15 times, most recently on June 28, 1988, in New York City, with the historic filing of the complaint, United States v. The International Brotherhood of Teamsters (IBT). Of the 15 filings, 9 sought injunctive relief and were initiated from previous FBI criminal investigations. The 6 remaining filings were for treble damages and were brought on behalf of Government regulatory agencies such as the National Credit Union Administration, the Federal Emergency Management Agency (defrauding the Federal Crime Insurance Program), the Federal Deposit Insurance Corporation, and the Federal Savings and Loan Insurance Corporation.

The FBI has developed and implemented an Organized Crime National Strategy. One significant aspect of that strategy is the use of civil RICO to attack the economic base of organized crime. The FBI has declared labor racketeering as its number one priority within its Organized Crime Program. The LCN is a national crime problem, primarily due to its extraordinary influence over national and local unions, union benefit funds, union service provider industries, and industries engaged in interstate commerce. While the FBI Organized Crime National Strategy recognizes the significance of the LCN presence within the United States, we also are aware of the emergence of other organized crime groups and their impact upon American society. Future civil RICO investigations will focus on the organization and activities of these emerging groups as well as their infiltration of American industry. In response to the enactment of the RICO Statute, the FBI developed a new methodology of investigation--the Enterprise Theory of Investigation, which Director Sessions explained in greater detail in his April 11, 1988, appearance. At that time, he provided detailed summaries of successful FBI investigations against organized crime which had employed this method of investigation. Today, I am including summaries of civil RICO cases that have used this method of investigation and that reflect the successes the Government has achieved against organized crime and its associates. The cases have exposed organized crime influence and control in union locals of the IBT, the Laborer's International Union of North America; the United Food and Commercial Workers Union; and the United Slate, Tile, and Composition Roofers, Damp and Waterproof Workers Association. This influence was deeply rooted, pervasive, and longstanding--at least 20 years in each union local. These cases demonstrate organized crime's interest in such diverse industries as: trucking in northern New Jersey; the multimillion dollar cement and concrete industry in New York City; the $250 million a year commercial moving and storage industry in New York City; the commercial seafood processing industry in the northeastern United States; and the commercial and residential roofing industry in our mid-Atlantic states.

I am also providing for the Subcommittee a summary outline of our most recently filed civil RICO action, United States v. The IBT. This suit sought to remove LCN influence from the Teamsters Union as well as its General Executive Board (GEB) and to enjoin future association between LCN members and the Teamsters. As you are no doubt aware, on March 14, 1989, a consent judgment was entered by the court in this matter between the IBT and the Government. However, several defendants remain in this litigation and are awaiting trial. Therefore, I am constrained from disclosing information regarding our investigation and must restrict myself to information that is already before the public. In the course of my presentation, I will return to this matter from time to time for additional comment.

On March 14, 1989, the IBT, its GEB, and 11 of the executive officers of the union, including general president William J. McCarthy, all defendants in the civil RICO suit filed June 28, 1988, reached a settlement agreement with the Government. The above-named defendants acknowledged, "that there have been allegations, sworn testimony, and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT..." The initial complaint named the following defendants: the commission of the LCN, 27 LCN members or associates; the IBT; the IBT GEB; and 19 present or former GEB officers. The LCN defendants included the bosses of 6 LCN families and LCN members from 15 of the 25 LCN families nationwide. Since June 28, 1988, the following events have occurred: Two defendants, Jackie Presser and Anthony Provenzano, have died; court-ordered default judgments have been authorized against four defendants; the commission of LCN, Gennaro Langella, Nicholas Marangello, and John Tronolone; and consent judgments have been obtained from 16 LCN members or associates and 20 current or former executive officers of the IBT. As a direct result of the suit, the following IBT defendant vice presidents resigned from the GEB and retired: Robert Holmes, Sr., John H. Cleveland, Maurice R. Schurr, and Donald Peters. Defendant IBT vice president Harold Friedman was convicted of criminal RICO on January 13, 1989, in Cleveland, Ohio, for embezzling Teamster union funds, but continued in office as a member of the IBT GEB. Because of his criminal conviction, he will be banned from union office by law upon his sentencing. However, as a result of the settlement, Mr. Friedman was forced to take an unpaid leave of absence from his position immediately. During the pendency of the litigation, Mr. McCarthy succeeded Mr. Presser as general president of the IBT by vote of the IBT GEB. The GEB members in turn selected and appointed replacements for vacancies created by the resignation of their associated vice presidents. The process of appointed leadership continued despite the Government's suit and despite the fact that this process encouraged the continuance of corrupt influences. The filed complaint named 48 defendants. Excluding the three organizational defendants, 20 of the 45 personal defendants stipulated or otherwise asserted that if asked any questions relating to the allegations of the complaint, they would refuse to testify, citing their constitutional privilege against self-incrimination. Three of these 20 defendants are former Teamster officers, and one is a former international vice president. Similarly, a group of 42 nonparty witnesses summoned to testify on behalf of the Government in this litigation stated that they would invoke their constitutional privilege against self-incrimination if asked any questions relating to the allegations of the complaint. Twenty-three of these 42 nonparty witnesses are current Teamster officers. This group also includes 21 members of the LCN, 9 of whom are current or former Teamster officers.

The terms of the settlement agreement are detailed in the attached case summary. The settlement provides a permanent injunction prohibiting Teamster members from knowingly associating with LCN members; initiates election reform, direct election of executive officers by one-person, one-vote apportionment; and provides government oversight of union activities sufficient to expose and expel corrupt union officers while vesting collective bargaining rights and political action initiatives with union officers. Government oversight of these two areas--collective bargaining and political action--was never an objective of either this investigation or litigation. Attorney General Richard Thornburgh has publicly remarked that the agreement promises "the tools to clean up this union and return control" to its members, a view which is shared by the FBI.

The IBT settlement in this litigation represents the culmination of years of intense and wide-ranging investigative effort by hundreds of FBI Special Agents throughout the United States who expended several hundred thousand man-hours in the areas of labor racketeering and organized crime infiltration of legitimate businesses and unions. These efforts publicly exposed the LCN's corrupting presence and influence in and over the Teamsters Union and its executive officers. Within the FBI this investigation is viewed as a landmark--the single most significant victory ever achieved in our organized crime-labor racketeering program. This investigation is the cornerstone of our national strategy to divest the LCN of its economic base. I wholeheartedly agree with District Court Judge David N. Edelstein who remarked upon settlement that "the IBT has had a long and sordid career of corruption and involvement with criminal elements and corrupt practices...(and), this agreement is designed to ensure that the IBT and its 660 locals belong always to the 1.7 million men and women that comprise its heart and soul."

Among the case summaries provided are two investigations that are not labor related, but which do reflect the flexible application of civil RICO in dealing with legitimate businesses operated by organized crime and criminal enterprises operated for illegal profit. Specifically, I am referring to the Ianniello matter, which resulted in a court-imposed receivership over several New York restaurants operated by organized crime figures, and the Cappetto matter wherein the court issued an injunction against several defendants for operating an illegal gambling business. In Cappetto, several defendants were jailed for contempt of court for refusing to disclose information pursuant to court-ordered discovery. The Seventh Circuit Court of Appeals affirmed the district court grant of a preliminary injunction in Cappetto and held that the government did not have to show irreparable injury to obtain a preliminary injunction. The Circuit Court created precedent when it adopted a favorable test for when the Government is entitled to equitable relief under Section 1964. "Whether equitable relief is appropriate (under Section 1964) depends, as it does in other cases in equity, on whether a preponderance of the evidence shows a likelihood that the defendants will commit wrongful acts in the future, a likelihood that is frequently established by inferences drawn from past conduct." In most instances, the civil RICO actions summarized by the attached case briefings were preceded by successful criminal RICO prosecutions. The civil RICO complaint incorporates criminal convictions and any other acts committed by defendants to the detriment of their unions. Other acts would include arrest and conviction records for union officers, prior criminal cases, civil judgments against the union, public testimony or media exposure of corruption, or fiduciary failure.

Each case illustrates the great latitude of judicial discretion in ordering remedial relief to fit unique facts and circumstances.

It is my belief that the cases described here for the Subcommittee illustrate FBI investigations and government prosecutions that reflect the Congress's intent for use of civil RICO. The Congressional Record, which recorded the legislative history of Section 1964(a), is unambiguous when it states "subsection (1964)(a) contains broad provisions to allow for reform of corrupted organizations. Although certain remedies are set out, the list is not meant to be exhaustive, and the only limit on remedies is that they accomplish the aim set out of removing the corrupting influence and make due provision for the rights of innocent persons."

The scope of civil RICO has been reviewed and upheld by the Supreme Court. In two Supreme Court decisions, U.S. v. Turkette and Sedina, S.P.R.L. v. Imrex Company, the Court stated that there should be broad interpretation of RICO in both its criminal and civil provisions. The Court emphasized the importance of the liberal construction clause in the statute enacting RICO and specifically noted its application to civil RICO when it stated in Sedina "if Congress's liberal construction mandate is to be applied anywhere, it is in Section 1964, where RICO's remedial purposes are most evident."

The Government's use of the civil RICO statute has not been limited solely to labor unions, nor is it a vehicle to attack unions. As previously mentioned, in the Ianniello and Cappetto cases, receivership was established over several restaurants and an injunctive order against an illegal gambling business was obtained. The New York City Fulton Fish Market, a commercial fish-processing industry, is now under receivership as a result of civil RICO action. Additionally, a civil RICO suit which seeks a court-ordered injunction and divestiture of certain LCN assets, has been filed against the New York based Bonanno LCN Family.

Five court-imposed civil RICO receiverships have existed within the last year--four imposed upon labor union locals and one imposed upon a geographically defined commercial industry. The duration of these receiverships is from one year to an indefinite period. The receivership ends if the court determines its remedial action is successful. In three instances they are referred to as trusteeships and in one as a decreeship. Within the meaning of the law they are all receiverships. Three of the five receiverships were created by consent judgments by labor unions. The remaining receiverships, imposed upon IBT Local 560 and Roofers Locals 30 and 30B, resulted from trial testimony and court-ordered judgment granting Government relief. The principal officer of these receiverships is either a trustee, administrator, or a court liaison officer. The authority of each principal officer is derived from the court. The structure and goals of each receivership are diverse and reflect the judicial discretion of their creation. In only one instance (the Local 6A matter) has the Court authorized the Department of Justice to assume extraneous authority. In that instance, the Department of Justice was authorized to review Local 6A books and records every six months, to have an independent auditor perform an annual audit of the District Council and Local 6A books and records, and to visit or inspect at any time job sites at which members of Locals 6A, 18A, 20, and 1175 are employed or are eligible for employment. Costs and/or expenses incurred pursuant to this authorization are paid by the Department of Justice. In four of the receiverships, the salary of the court-appointed receiver, as well as the administrative cost of the receivership are paid by the union and its benefit fund affiliates. In the matter of the Fulton Fish Market receivership, the costs, which include several staff salaries and overhead for office space and equipment, are paid from Department of Justice allocated funds.

I would now like to address the FBI's role in the civil RICO postjudgment period. To date, court judgments issued in civil RICO cases have both short- and long-term goals. The short-term judicial remedial action ordered has taken the form of receivership. The long-term action has resulted in court orders that bar specific individuals or organized crime groups from associating with the union local or industry that is in receivership. The FBI's role within these two distinct areas is both support and enforcement of the imposed judicial remedial action. In a moment, I will discuss the FBI's support role to the receiver as well as the efforts undertaken regarding civil enforcement actions. Before turning to those areas, I want to emphasize to the Subcommittee that the court-appointed receiver often faces a long and arduous assignment in a hostile environment where democratic principles and normal business practices have long been corrupted or absent. To reestablish representative union Government and sound business practices, the court-appointed receiver should avail himself/herself of existing expertise from Government regulatory agencies as well as the expertise of professionals in the academic, legal, health services, and business fields. There currently exist Federal, state, and in some jurisdictions, municipal agencies charged with enforcement of administrative and regulatory labor law as well as agencies with oversight responsibility for licensing. The FBI is an investigative agency and does not seek an administrative or regulatory role in receivership administration. Information provided by the receiver that alleges criminal misconduct or violation of the civil court order will be handled in the same manner as similar information that is received from a private citizen. The imposition of the receivership does not abrogate the constitutionally protected rights of union members or business associates nor should it subject them to a higher standard of Government surveillance or suspicion.

In the area of postjudgment civil enforcement action, the FBI will vigorously investigate and seek prosecution of individuals who have violated the court order. We have initiated changes to our record systems to capture the necessary data to identify individuals and entities subject to civil RICO injunction. To date, no person has been prosecuted for violation of a civil RICO court order. The use of civil RICO is still in its infancy. However, I believe the enforcement of these civil actions will provide an additional tool--a significant weapon--in our continued efforts against members of organized crime.

The authority of the FBI to conduct civil investigations is derived from law, specifically, Title 28, United States Code, Section 533, Subsection 3 and Title 28, Code of Federal Regulations, Section 0.85, Subsection (a). While these grants of investigative authority would authorize the FBI to investigate compliance with a civil RICO court order, the RICO Statute itself provides an independent jurisdictional basis for such investigation in Title 18, United States Code, Section 1961, Definition (8). The statutory authority to conduct racketeering investigations, as defined by this subsection, provides a complete and independent jurisdictional basis for the FBI to investigate compliance with civil RICO court orders. This authority runs directly to the FBI and is not dependent upon a prior request for investigation by a court or by a court-appointed officer. The FBI is under no legal obligation to respond to a court-appointed receiver's request for investigation unless it falls within the FBI's statutory authority. The FBI, in response to such a request, will evaluate the need and the substantive information provided prior to initiating any investigation. Once an investigation is initiated, the FBI will collect information and evidence for a prosecutor and ultimately a judge to determine whether the activities of the suspect person or persons have violated the terms of the civil RICO injunction or other substantive Federal law. The investigation would be conducted independent of the receiver's authority.

The disclosure of FBI records is governed by the Privacy Act of 1974 (Title 5, United States Code, Section 552a). The Privacy Act provides that an agency may not disclose any record contained in a system of records except pursuant to written request by, or with the written consent of, the individual to whom the record pertains unless the disclosure falls within an area of 12 exceptions. Of the 12 exceptions, access to FBI files may be gained by written consent of the requesting individual or a court order.

As a point of interest to the committee, in a matter related to IBT Local 560 and its trusteeship, the Third Circuit Court of Appeals on June 27, 1988, ruled in a matter pertaining to discovery and depositions (Rule 30(a)) that "In replacing Local 560's executive board, the Court designed the trusteeship to oversee the union's day-to-day operations and eradicate the residual impact of past racketeering domination. We therefore, hold that the ongoing maintenance and protection of the trusteeship constitutes an action for the purpose of (Federal Rules of Civil Procedure) Rule 30(a). Moreover, the Government was a party to the 1984 action which created the trusteeship. Therefore, we conclude that the Government remains a party within the meaning of the rule, to any subsequent investigative activities it takes to effectuate the objective of the 1984 final judgment." The Court's ruling contains a footnote which states in part "taken in conjunction with our jurisdiction and holding, our present conclusion posits the trusteeship as a jurisprudential hybrid inbred with the capacity to institute substantive and investigative proceedings."

In his order of May 23, 1988, Judge Louis C. Bechtle, of the District Court, Eastern District of Pennsylvania, provided the following reasons, among others, for granting what the court considered to be "appropriate injunctive relief to protect the Union, its members and the public," by creating a decreeship over Roofers Locals 30 and 30B. "The court must aid the union to put a stop to the perception of the misuse of the Union Hall as a feared chamber of terror or a beating gauntlet and elevate it to a respected place of legitimate business.... The evidence presented to this court in the preliminary injunction hearing establishes in a convincing and persuasive form that the racketeering activity of the individual defendants over the past twenty years extends far beyond that for which they have been charged, convicted and sentenced. Furthermore, the evidence establishes the involvment of many more officers, agents, members and accomplices of the Roofers Union than have been convicted thus far.... The systematic practice of functioning on a basis where violence and blatant violations of law were official Union policy over the last twenty years creates a substantial likelihood of continued violations and the perception by people in the industry as well as members of the Roofers Union itself that such violations will continue.... This Union has been dominated over more than twenty years by a creed of violence, unlawfulness and defiance of authority. The imposition of the creed by force, fear, and intimidation upon the roofing industry and much of the Union membership prevents the Union from quickly restoring itself to the role that its current and future membership expects and the law demands.... Under its past leadership the Union was reduced to a mere shell that lost sight of its legitimate goals and allowed the improper means it utilized to consume it. Through the injunctive relief outlined herein the court seeks to restore or may create for the first time honest pride in the Union. This labor organization is not capable of curing its problems without the intervention of one or more outside authorities in a form, and for such duration, as will provide it with the best chance, if it has one at all, of avoiding dissolution."

In Director Sessions' previous presentation, he spoke to you about the decline in the number of Agents who are devoted to the Organized Crime Program. This is partly caused by the diversion of Agent resources to the war on drugs. Every criminal RICO is a potential civil RICO. It is only through program management by FBI program managers that we can maximize the effectiveness of these investigations into industries and associated unions that are most affected by organized crime and which will have the greatest impact on the economy.

Civil RICO investigations are frequently complex, multi-year investigations that develop information from every investigative technique utilized by the FBI. You may recall that under the

Enterprise Theory of Investigation, those investigative techniques include court-authorized electronic surveillance, undercover operations, cooperating witnesses, informants, and other traditional investigative techniques. All of these techniques are complex and manpower intensive. The civil RICO investigation is an integral part of our Organized Crime National Strategy and is extremely manpower intensive. When we expand the successful criminal RICO prosecution to a Civil RICO complaint, the entire investigation must be reviewed and reorganized to support the civil litigation. The investigating Agents must excise privileged material such as grand jury testimony and informant information from the investigative materials prior to review by the civil litigator. Ultimately, the entire body of information must be screened by the FBI to remove documents protected by statutory or common law privilege in preparation for discovery. Information previously collected, but not used in the criminal prosecution, must be reviewed for applicability to the civil complaint.

Into this category would fall electronic surveillance. While a percentage of those recordings may have been introduced at the criminal trial. the entire surveillance may be considered in a civil action. For defendants in the civil RICO suit who were not charged in a preceeding criminal RICO indictment, additional investigation and document retrieval will be required.

When the target of investigation is a national organization, the case preparation significantly increases.

FBI Special Agents are criminal investigators thoroughly familiar with the Federal statutes that they are sworn to enforce. In civil RICO we must familiarize ourselves with civil procedures. This has mandated increased training requirements for our Special Agents.

The long-term duration of the court-imposed receivership as well as the enforcement of the injunctive judgment entered against civil RICO defendants are areas of additional concern. Throughout the duration of the receivership the FBI will maintain contact with the court-appointed officer to receive information and, when it is permissible under statutory authority, to exchange information. The effectiveness of the civil court order is measured by its vigorous enforcement. We are modifying our indices systems to record civil RICO judgments so that we may be aware of potential injunction violations by defendants nationwide when our investigative activity reveals it. In instances where the relief is a permanent injunction for the life of the defendant, enforcement of the court order may be assisted by routine FBI investigative procedures. However, for injunctive relief which remains in effect only for the life of the receivership, or for events that occur during the receivership, enforcement is more difficult. For instance, how is information transmitted to the court-appointed receiver about alleged illegal activity or a violation of the injunction which has as its source a grand jury, an informant, a court-authorized electronic surveillance, or an ongoing criminal investigation--all areas of privileged communication or investigative sensitivity? In some matters, such as electronic surveillance, a statutory remedy is provided by court-ordered release.

Within the past year, the Government's efforts to rid labor unions of organized crime's presence and restore the democratic process to thousands of rank and file members by applying for court relief under provisions of civil RICO has caused publicity and generated discussion. On its face, the general statement "the government has filed to seize control of a union," seems arbitrary and, frankly, undemocratic. However, in fact, the executive branch of the Government files civil RICO complaints which are submitted for judicial review in response to legislative statutes. The goal of civil RICO is not to deliver labor organizations to the control of the Government, but rather to deliver labor organizations from the present control or influence of organized crime. Filings under civil RICO are in response to legislation passed by Congress, and cases brought under it are subject to due process. The labor unions, trade associations, businesses, and individuals named as defendants in civil RICO actions will, in a phrase, "have their day in court."

It has been suggested that the labor unions be allowed to police themselves, that Government intervention is unnecessary. Over the last 37 years, Government and congressional committees have publicly identified organized crime figures who have infilitrated labor unions. The media have publicly exposed corruption in labor unions caused by organized crime figures or their associates. The Congress has enacted the Labor Management Reporting and Disclosure Act, which permits labor unions to impose trusteeships upon their subordinated bodies for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements, restoring democratic procedures, or otherwise carrying out the legitimate objectives of the union. In each of the case summaries involving a labor union presented to the Subcommittee today, the filing of the civil RICO complaint was preceeded by several months, by a criminal RICO conviction exposing organized crime's presence and corruption in the union local. In each case the corruption was widespread and of at least 20 years' duration. In each case the national labor union, the parent body of the local, failed to initiate any action pursuant to the Labor Management Reporting and Disclosure Act to "clean their own house" prior to initiation of civil RICO proceedings.

The public response of organized labor to organized crime's presence within the labor movement has been inadequate. The public response of organized labor to Government attempts to rid the labor movement of organized crime has been opposition. Organized labor should not simply leave it to Government agencies to bring criminal cases against organized crime and corrupt union officers. In instances where the union leadership had both information and opportunity to remove organized crime figures from their organizations and failed to do so, they also may have failed in their fiduciary duty to the rank and file. To date, no FBI investigation has been initiated at the request of any national labor leader for the purpose of removing organized crime from the ranks of organized labor.

However, Jackie Presser, former Teamsters general president, at great risk to his personal safety, provided confidential information to the FBI which led to several successful criminal investigations of corrupt union officers and organized crime members within his union. Mr. Presser stated he was driven to his confidential course of action because of the climate of fear and reprisal due to the pervasive presence of the LCN in and around the union, its funds, and related industries.

Indeed the long history of violence against many Teamster officers and members gave Mr. Presser ample reason to fear for his safety. In addition to the ominous disappearance of former Teamsters general president James Hoffa, there were the organized crime-related deaths of Teamster officers and members, among them, John Nardi, Daniel Seifert, Vincent Bonacasa Jr., Salvatore Briguglio, John Gawronski, Francis (Frank) Marino, Fred Furino, Anthony Castellito, Walter Glockner, Otto Wendell, Raymond Aponte, Reuben Gonzalez, Ralph Proctor, Bruno Bauer, Lloyd Hicks, Orlando Coraluzzo and Michael Ardis; or the Genovese LCN Family's 30-year reign of terror over Teamster Local 560 by Teamster officer and LCN member Anthony "Tony Pro" Provenzano; or the public murder of Teamster and organized crime associate Allen Dorfman; or the hundreds of assaults, bombings and incidents of intimidation that occurred during Mr. Presser's lifetime.

In March, 1986, the President's Commission on Organized Crime issued its report to the President and the Attorney General titled The Edge: Organized Crime, Business, and Labor Unions and reported the labor movement's response to organized crime. The Commission documented that the AFL-CIO had done essentially nothing since 1957 to expel organized crime from its member unions. The Commission noted that "in 1981 AFL-CIO

President Lane Kirkland testified before the United States Senate Permanent Subcommittee on Investigations that union officials who invoke the Fifth Amendment to shield themselves from an inquiry into their fiduciary responsibilities cannot be allowed to hold office." Teddy Gleason, then president of the International Longshoremans Association (ILA); Edward Hanley, president of the Hotel Employees and Restaurant Employee International Union (HEREIU); and Angelo Fosco, president of the Laborers International Union of North America (LIUNA); each have invoked the Fifth Amendment privilege before Government committees, and both Hanley and Fosco remain, today, members of the AFL-CIO Executive Board and presidents of their respective unions. The Commission, in this public report, stated that the "AFL-CIO constitution recognizes that one of the objectives of the Federation is "to protect the labor movement from any and all corrupt influences." In 1956 and 1957, the AFL-CIO adopted a series of Codes of Ethical Practices designed to root out the corrupting influence of organized crime by recognizing that "the American labor movement has clearly accepted the responsibilty for keeping its own house in order. Among the declared practices are the following:

--If a trade union official decides to invoke the Fifth Amendment for his personal protection and to avoid scrutiny by proper public bodies, he has no right to continue to hold office in his union.

--No person should hold or retain office or appointed position in the AFL-CIO or any of its affiliated national or international unions or subordinating bodies who is commonly known to be a crook or racketeer preying on the labor movement and its good name for corrupt purposes whether or not previously convicted for such nefarious activities."

The AFL-CIO has authority to conduct investigations of its members if "there is reason to believe that any affiliate is contaminated, controlled or substantially influenced in the conduct of its affairs by any corrupt influence." The President's Commission reported that as of 1986, the AFL-CIO committee on ethical practices, which has responsibility for those investigations, "had not met in the last 25 years."

In 1985, AFL-CIO President Lane Kirkland responded by letter to Senator William Roth of the Senate Permanent Subcommittee on Investigations and Mr. James Harmon, then the Executive Director and Chief Counsel for the President's Commission on Organized Crime, regarding the AFL-CIO's policy on invocation of the Fifth Amendment. After restating the AFL-CIO's continued commitment to its Policy Resolution on Fifth Amendment Cases, Mr. Kirkland wrote "union's are poorly equipped to uncover the facts concerning allegations of corruption or claims that the Fifth Amendment has been invoked as a shield to avoid discovery of corruption, and that the government, in large part through the efforts of the Investigations Subcommittee, is now superbly equipped to secure evidence of corruption, to make the proper allegations in an indictment where there is such evidence and to attempt to prove those allegations in open court in the manner provided for in our criminal justice system." Mr. Kirkland relies upon the Government's enforcement of the Labor-Management Reporting and Disclosure Act of 1959 as justification that AFL-CIO "self-policing procedures have been less and less used." This reliance is based upon "initial Ethical Practice Code investigations (which) demonstrate that it is all but impossible for a private voluntary organization such as ours (AFL-CIO) to get at the facts...."

This is an erroneous reliance. Thousands of private American voluntary associations and/or organizations have vigorous enforcement programs to compel membership compliance with organization rules without reliance upon Government investigations, criminal prosecutions, congressional hearings or subpoena power. Mr. Kirkland also relies upon the criminal justice standard of proof--proof beyond a reasonable doubt--to support his due process assertions for removal of union officers corrupted or influenced by the LCN, or simply corrupt officers. Mr. Kirkland places no reliance upon lesser standards of proof such as the civil law standard--preponderance of the evidence, or the most elementary standard--probable cause or, for that matter, public information published by the media or disclosed by public forum, to hold labor officials accountable or to initiate investigations.

On November 1, 1987, the Teamsters rejoined the AFL-CIO and returned to the very organization which had expelled them nearly 30 years before for corruption. The President's Commission on Organized Crime concluded in its March 1986 report that "the leaders of the Nation's largest union, the International

Brotherhood of Teamsters (IBT), have been firmly under the influence of organized crime since the 1950s...Former Teamster president (and convicted labor racketeer) Roy L. Williams told the Commission, "Every big (Teamster) local union...had some connection with organized crime." Mr. Williams has subsequently testified before several judicial and investigative tribunals publicly restating he was controlled and influenced by former Kansas City LCN Boss Nick Civella while a teamster. The AFL-CIO stood silent on the question of dealing with a convicted labor racketeer as a member of the Teamsters General Executive Board--a convicted labor racketeer who failed in his fiduciary trust to both his union and its membership. Teamster vice president Maurice Schurr was convicted in 1984 of receiving labor "peace" payoffs from business owners in violation of the Taft-Hartley Statute. These illegal payoffs prevented the members of his own local union in Philadelphia from working. In the same trial proceeding, Mr. Schurr was convicted of criminal RICO conspiracy. Following his conviction, Mr. Schurr was reelected in 1986 as a Teamster international vice president on a slate of officers which included many current Teamster executive officers. Mr Schurr was incarcerated for 6 months following his reelection and was subsequently released to 2 years' probation, but continued to serve on the Teamsters General Executive Board until his retirement on November 1, 1988.

It is my understanding that Mr. Schurr retired from his union position with full pension benefits. Benefits partially accrued during the period he was accepting illegal payoffs and subsequent to his conviction. Mr. Schurr's retirement occurred approximately 4 months after the Government filed its civil RICO complaint against the Teamsters which, among other counts, included the above information.

I enthusiastically endorse the conclusion of the President's Commission on Organized Crime that "voluntary efforts by unions to free their organizations from organized crime's influence sends a clear signal to the membership, and to the general public, that not even the perception of corruption will be tolerated. Such efforts augment the work of law enforcement and need to be increased." Toward this goal I would encourage the AFL-CIO to initiate an anticorruption campaign stressing cooperation with law enforcement authorities and self-regulation.

The first objective of our Organized Crime National Strategy is to eliminate the LCN and other organized crime groups as significant threats to American society through sustained coordinated investigations that support successful prosecutive action. This objective will be attained by the FBI approaching the LCN as a national conspiracy in addition to addressing each family as a separate entity. Ongoing investigations and intelligence clearly establish that LCN families interact with one another on a frequent basis. When conspiring to commit crimes, these families do not abide by territorial boundaries as long as there is procedural agreement among the families involved. This is one of the primary reasons the LCN has been successful in establishing a strong power base through its national control and influence in labor unions and the marketplace. Like a surgeon who can only treat cancer when it appears or reappears, we would chase the LCN "cancer" throughout the American economy. The proper diagnosis for our economy's long-term health and recovery from the LCN is preventative treatment not continual surgical operations. We have already researched and documented the spread of the LCN cancer. You, the Congress, have prescribed the legislative medicines--criminal and civil RICO sanctions--to put this disease in remission. The cases presented to you today represent the first treatment against this economic disease.

The prognosis appears good that the American economy will recover from this LCN illness.

Thank you.

CASE 1

(1) United States versus Local 560, International Brotherhood of Teamsters, et al (District of New Jersey).

In 1982, the United States sued five members of a criminal enterprise known as the "Provenzano Group" (a part of the Genovese LCN Family), the seven Executive Board members of the Teamsters Local 560, the Local and its funds, alleging that the members of the Provenzano Group, aided and abetted by the Executive Board members, had violated RICO through acts of extortion and murder that intimidated the membership and deprived it of its statutory rights under the labor laws. This civil action was predicated on over twenty years of organized-crime control of Local 560 and numerous criminal convictions of its officers and organized-crime members associated with the union. Although some defendants agreed to consent orders, a bench trial with 51 days of testimony was required before the court ruled in favor of the Government. The District Court granted the equitable relief requested by the Government, enjoining two remaining members of the Provenzano group from having any future contact with Local 560, and removing the entire Executive Board in favor of a court-appointed trustee, to continue until "reasonably free supervised elections can be held." The court retained jurisdiction over Local 560 as a "nominal defendant in order to effectuate the equitable relief" ordered. The Third Circuit Court of Appeals affirmed the decision and remarked "clearly, the District Court's injunction in the instant case fell within its broad remedial powers of divestiture" and "reasonable restrictions" provided for under Section 1964. In 1986, the Supreme Court denied certiorari and the District Court appointed a trustee for the local. In December 1988, the membership of Local 560 voted in court-supervised elections for new local officers. The Trusteeship remains in effect pending review by the court.

CASE 2

(2) United States versus Local 6A, Cement and Concrete Workers, Laborers International Union (Southern District of New York).

In 1986, the Government sued the Cement and Concrete Workers District Council, its Executive Board, Laborers International Union of North America (LIUNA), Local 6A (cement and concrete workers) and its Executive Board, 16 various union officers and members of the Colombo LCN Family, seeking orders banning the Colombo LCN members from participating in union affairs or in the construction industry; barring union defendants from acting on behalf of the union; and appointing one or more trustees to supervise the activities of the union. The suit was filed as a follow-up to the successful criminal prosecution of U.S. versus Persico in which, among other convictions, two Colombo LCN members were convicted of violating RICO in connection with an ongoing pattern of extortion in the construction industry. The court granted preliminary relief without a hearing against the two defendants who had been convicted in the Persico case. Subsequently, on March 18, 1987, the court entered a consent judgment against all 16 union defendants permanently enjoining them from participating in union affairs--with some exceptions, for example, they could continue to be union members employed in the trade. All members and associates of the Colombo LCN Family and the Commission of the LCN were enjoined from participating in the affairs of the union and the concrete industry. The court appointed a monitor who is empowered to oversee the operations of the union, but who lacks the broad powers of the Local 560 trustee. The court ordered staggered elections to begin in 1988 with the monitor to remain in overall control until 1990. The court authorized the Department of Justice to review the union defendant's books and records once every 6 months, to hire independent auditors to audit defendant's books and records, and to visit and inspect at any time job sites at which members of union locals 6A, 18A, 20 and 1175 are employed or are eligible for employment.

CASE 3

(3) United States versus the Bonnano Organized Crime Family of La Cosa Nostra, et al (Eastern District of New York).

On August 26, 1987, the Government filed a civil RICO suit against the Bonnano LCN Crime Family and its members, 12 Bonnano LCN members, Teamsters Local 814, its Executive Board, former officers, its related benefit funds and Executive Board. The criminal activity alleged as the basis for civil relief under RICO consisted of 205 separate acts of racketeering activity including gambling, narcotics trafficking, extortion, loansharking, theft from interstate shipments, and labor racketeering. The complaint seeks to enjoin the Bonnano LCN Family defendants from associating for any business or commercial purpose, from "making" new members or associates of the family, and from participating in any manner in the conduct of the affairs of the family. The Government seeks to undermine the economic base of the family by seeking treble damages from the defendants for participation in labor racketeering activities (IBT 814), forfeiture of property acquired by gambling proceeds, and divestiture of legitimate businesses purchased or operated by money derived from the Bonanno LCN Family racketeering enterprise. The Government had not previously used RICO to seek such sweeping injunctive relief against an LCN family for its members. The rationale for doing so is that the order, if granted by the court, can be swiftly enforced by criminal contempt proceedings that could lead to fines and incarceration for any violation.

On October 8, 1987, the District Court approved a consent decree between the Government and the leadership of IBT 814 and its benefit funds. The consent decree provides for the appointment of a union trustee by the court; the immediate resignation of the current union Executive Board and trustees of the benefit fund; designation of an interim Executive Board of trustees; an audit and accounting of all funds; establishment of a grievance committee; and general election of union officers to be determined by the court after one year. The civil complaint and resultant consent decree were based upon the successful criminal prosecution, U.S. versus Philip Rastelli, et al (Eastern District of New York); a classic enterprise theory investigation and prosecution which resulted in the identification and conviction of the three enterprise elements basic to this theory of investigation; Organized Crime (the Bonanno LCN Family hierarchy), union corruption (all officers of IBT 814), and legitimate business (several employers organized by IBT 814). The investigation proved twenty years of Bonanno and Genovese LCN Family control and influence over IBT 814.

In January 1989 supervised elections were held for local officers of IBT 814. The remaining allegations set forth in the complaint which concern the Bonanno LCN Family are pending trial.

(4) United States versus Local 359, United Seafood Workers, Fish and Cannery Union, et al (Southern District of New York)

On October 15, 1987, the Government filed a civil RICO suit against the Genovese LCN Family, 29 members and associates of that crime family, United Food and Commercial Workers Union Local 359, AFL-CIO also known as the United Seafood Workers, Smoked Fish and Cannery Union, its benefit funds, all union and fund officers, and the Fulton Fish Market Employers Association and Associated Purveyors. The complaint is designed to remove the Genovese LCN Family control over the operations of the Fulton Fish Market and Local 359, which the Genovese LCN Family has controlled since the 1930s. The Fulton Fish Market located in lower Manhattan, a borough of the city of New York, provides the majority of wholesale fresh seafood in the New York metropolitan area and distributes wholesale fresh seafood to customers throughtout the Northeastern United States. The Market processes approximately one billion pounds of fresh seafood per year. Local 359 has collective bargaining agreements with the numerous businesses in the market represented by the employers association. Local 359 provides union representation for employees of those businesses.

The suit is the only civil RICO case ever brought by the Government to request court supervision over the activities of an entire commercial center.

CASE 4

The complaint alleges that the Genovese LCN family, its members and associates, and officers of Local 359 are conducting, and conspiring to conduct, a pattern of racketeering activity based on predicate acts including theft from interstate shipments, extortionate credit transactions, interference with commerce by extortion, illegal gambling businesses, illegal labor payments, wire fraud and state law murder. The complaint follows a 1981 criminal RICO prosecution in which Carmine and Peter Romano, officers of Local 359, and others were convicted on all counts in connection with labor racketeering activities involving the Fulton Fish Market. Carmine Romano is a soldier in the Genovese LCN family and former secretary/treasurer of Local 359 in 1980.

The relief sought includes injunctions against future RICO violations; divestiture of the Genovese LCN family members' businesses that are related to the Fulton Fish Market; and injunction against Genovese LCN family members, associates, and all defendants prohibiting their re entry into the commercial seafood industry; removal of union officials from office and appointment of a union trustee; and appointment of administrators to direct the operations of the Fulton Fish Market.

On April 15, 1988, the court approved both a consent judgment and default judgment against the Genovese LCN family, and its members and associates, including the 29 defendants named in the original complaint. The court permanently enjoined the defendants from further dealings or associations with Local 359, any other labor unions associated with the Fulton Fish Market or commercial seafood industry, or any business in the Fulton Fish Market or commercial seafood industry. The court appointed an administrator with broad powers to serve for four years to oversee the Fulton Fish Market.

The investigation was conducted by a joint task force of FBI Special Agents and officers of the New York City Police Department.

on January 24, 1989, after a nonjury trial held August 1 - 17, 1988, U.S . District Court Judge Thomas P. Griesa ruled that the Government failed to prove Genovese LCN family control of Local 359. Judge Griesa then dismissed the complaint against the union, but noted in his remarks that "the attempt to rid the Fulton Fish Market of organized crime, which was begun with the criminal prosecutions of 1981, is continuing by means of these (earlier) remedies."

CASE 5

(5) United States versus Local 30, United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association, AFL-CIO, et al (Eastern District of Pennsylvania).

On December 2, 1987, the Government filed a civil RICO suit against two union locals, 30 and 30B affiliated with the United Slate, Tile and Composition Roofers, Damp and Waterproof Workers Association, AFL-CIO, (Roofers Local 30 and 30B), and 13 officers of these labor unions. The suit followed the criminal RICO convictions of the 13 individual defendants in United States versus Stephen Traitz, Jr., et al., on November 23, 1987. The defendants were found guilty of conducting and participating in the affairs of the Roofers Union through a pattern of racketeering activity, RICO conspiracy, bribery of Federal, state, and local officials, mail fraud, extortion, illegal kickbacks from providers to an employee benefit plan, embezzlement from the employee benefit plan, and collection of extortionate debt for organized crime.

Defendant Traitz, Business Manager of Roofers Local 30 and 30B, succeeded to that position after his predecessor, John McCullough, was killed in an organized crime murder. Court-approved electronic surveillance established that in 1981 Traitz made an agreement with Nicodemo Scarfo, then boss of the Philadelphia LCN family, to do favors for Scarfo such as collecting debts and resolving disputes between labor unions and LCN affiliated contractors.

Scarfo thereafter obtained influence over the organizing efforts of the union locals and gave permission, in some instances, to the Roofers Union concerning targets of physical violence. Owners of roofing companies within Local 30's jurisdiction were routinely called into the union office and threatened with violence if they did not make payments to the union. Additionally numerous judges and other public officials in the Philadelphia area were bribed by Traitz with money generated by kickbacks received from the law firm that provided legal services under the union's prepaid legal plan.

The civil RICO complaint, which included allegations beyond those established in the criminal trial, sought to enjoin the convicted defendants from participating in the affairs of the union, and requested that a trustee be appointed by the court to oversee the union's affairs until election of new officers can be held.

On May 23, 1988, the court entered an order and decree approving a preliminary injunction against the defendant and denying the Government's request for appointment of a union trustee. The preliminary injunction was restricted by conditions set forth in the court order. The court established a decreeship instead of the Government-requested trusteeship. The court appointed a chief U.S. Court Liaison Officer--Local 30/30B to serve as the principal enforcement officer of all provisions of the decree. This officer was given defined duties to carry out for the court. The decreeship would last indefinitely and be implemented by the issuance of decree implementation orders and amended by the issuance of decree amendment orders from time to time.

All individual defendants were immediately barred from union office and any position of authority in either the union or benefit funds or any association with the industry.

An industry-wide grievance/arbitration procedure was ordered established by the court as well as an audit of the union's financial condition.

(6) United States versus The International Brotherhood of Teamsters (IBT) (Southern District of New York).

On June 28, 1988, the Government filed its most recent civil RICO suit. The complaint names the Commission of La Cosa Nostra (LCN); 27 LCN members or associates; the International Brotherhood of Teamsters (IBT), Chauffeurs, Warehousemen and Helpers of America, AFL-CIO; the General Executive Board (GEB) of the IBT; and 19 present or former GEB officers as defendants. The purpose of this suit is to sever the long-standing ties between the LCN and the IBT and to remove the influence and control which the LCN has maintained over that International Union. The suit is based upon evidence gathered over the years from some of the most successful FBI investigations which have clearly demonstrated the influence which the LCN exercises over the IBT.

On March 14, 1989, the IBT and 11 members of the IBT GEB reached an agreement to settle the civil racketeering lawsuit against the Teamsters and thereby avoided trial. The settlement provides for court appointment of a three-person team of independent professionals to oversee certain operations of the IBT. The team will consist of an independent Administrator, an Investigations Officer, and an Elections Officer. The Elections Officer will supervise and certify the results of the IBT's 1991 elections and will have the right to supervise the IBT's 1996 elections. The Investigations Officer will serve as, in effect, a prosecutor, with the right to file charges against IBT members and to present evidence at disciplinary hearings and at hearings concerning the imposition of trusteeships over IBT subordinate bodies. The Administrator has all the rights and powers of the General President and the General Executive Board to discipline IBT members and to impose trusteeships. The Administrator will decide all disciplinary and trusteeship cases and will also have the power to veto union expenditures, appointments, and contracts (other than collective-bargaining agreements). All these court-appointed officers and their powers will continue until late 1992. The three court-appointed officers or their staff members may examine all books and records of the IBT or its affiliates; may attend GEB meetings; may take sworn statements and sworn in-person examinations of IBT members and, upon notice to the court, may take sworn statements and sworn in-person examinations of persons who are agents of the IBT; and may retain independent auditors to audit the books and records of the IBT or its affiliates. All costs, salaries, and expenses of these officers and their staffs will be paid by the IBT. The IBT will also provide suitable office space at its Washington, D.C., headquarters building for these officers.

The settlement requires significant and immediate changes to the IBT constitution, the most sweeping being electoral reform.

The IBT's General President, General Secretary-Treasurer, and all 16 International Vice Presidents will be elected by direct rank and file, one man, one vote, secret balloting. The General President, General Secretary-Treasurer and five International Vice Presidents (who serve as area conference directors) will be elected nationwide, and the remaining 11 International Vice Presidents will be elected regionally. Any candidate who receives five percent of the votes of the delegates from the appropriate geographic area at a nominating convention can be placed on the ballot. The delegates to the nominating convention will be elected by direct, rank and file, one man, one vote, secret balloting. The IBT consented to U.S. Department of Labor-supervised elections for any executive officer conducted after 1991. The Administrator may distribute materials directly to union members. The Administrator will also be able to publish reports and articles in International Teamster, the magazine of the IBT.

Following the 1991 IBT officer elections, an independent review board will be established with the power to investigate and discipline corruption in the IBT. This three-member board will have one IBT appointee, one Government appointee, and one appointee chosen by consensus of the two appointees. This review board will have powers similar to the court-appointed Administrator and Investigations Officer. The review board will have its own staff, at IBT expense, and will issue reports of its findings to the general membership. The decisions of this board are final.

Finally, the IBT consented to a permanent injunction that prohibits any IBT member from "knowingly associating" with any member of the LCN or any other criminal groups. The IBT is also permanently enjoined from obstructing or otherwise interfering with the work of the court-appointed officers or the independent review board.

Three individual union officer defendants (Robert Holmes, John Cleveland, and Maurice Schurr) have been permanently barred from union office in consent judgments. Three other union officer defendants (General Secretary-Treasurer Weldon Mathis and Vice Presidents Edward Lawson and Donald West) have entered consent judgments agreeing to suppport electoral and disciplinary reforms within the IBT. In connection with the court-approved and accepted settlement, union officer defendant Vice President Donald Peters will permanently resign his International union position, and union officer defendant Vice President Harold Friedman will take an unpaid leave of absence.

Five of the original 48 defendants remain a party to this litigation with a trial date to be determined. Judgments have already been entered against 21 of the 26 LCN defendants (including the Commission of the LCN) barring them permanently from any union activity or association.

CASE 7

(7) United States versus Cappetto (Northern District of Illinois)

In 1974, the Government filed a civil RICO complaint against several individuals alleging violation of United States Code, Section 1962 (b)(c)(d), in connection with their acquiring control of, and conducting the affairs of, an illegal gambling business. The complaint sought preliminary and permanent injunction restraining the defendants and those acting in concert with them from operating the business; divestiture of one defendant's interest in the building used for the illegal business; disclosure of the identities of other persons involved in the business; and an order directing each defendant to submit sworn quarterly reports to the United States for the next ten years stating his source of income and other information bearing on his compliance with the injunction. The District Court entered a default judgment against the defendants for refusing to obey discovery orders, issued a preliminary injunction against the illegal gambling activities, and held the defendants in contempt for refusing to obey discovery orders.

CASE 8

(8) United States versus Ianniello (Southern District of New York)

In February, 1986, the Government filed a civil RICO action for equitable relief against Matthew Ianniello, also known as Matty the Horse, a capo in the Genovese LCN family, and several other individuals, seeking to enjoin them from participating in the restaurant business and to divest them of their holdings in any bars or restaurants. Matthew Ianniello and other defendants had previously been convicted of criminal RICO and other charges in United States versus Ianniello (Southern District of New York) which involved the skimming of receipts from several New York restaurants that they owned and operated. One individual in the criminal trial was granted a motion for judgment of acquittal.

Some of the requested equitable relief, including detailed financial reporting requirements regarding one restaurant, was agreed to in a consent order. The main issues left to be resolved in the civil case were whether a receiver should be appointed to conduct the business of Umberto's Clam House Restaurant (located in the Little Italy section of New York City) during the pendency of the action, and whether Alfred Ianniello should be restrained from continuing as night manager of Umberto's. In April, 1986, the District Court declined to appoint a temporary receiver, finding that the Government had not yet brought forward sufficient evidence to justify that harsh remedy, despite the criminal convictions. However, the court did enjoin

Alfred Ianniello from working at Umberto's based upon his criminal conviction.

The Government hired an expert witness to conduct an investigation to determine whether skimming still was continuing at Umberto's.

In discovery deposition, three individual defendants invoked the fifth amendment. After a hearing, the court granted the Government's application for receivership *pendente lite*, rejecting the defendants' request for a full evidentiary hearing. The court based its decision on the record in the criminal trial, the testimony of the expert, and the adverse inferences to be drawn from the defendants' invocation of the fifth amendment. The receiver was given "sole and exclusive" control over the affairs of the restaurant, but was not given power to fire employees and was not given title to the restaurant.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 19, 1989

RECEIVED BY
SENATE PERMANENT
SUBCOMM ON INVESTIGATIONS

AUG 9 1989

MAJORITY OFFICE

Ms. Eleanore J. Hill
Chief Counsel
Permanent Subcommittee
on Investigations
United States Senate
Washington, D.C.

Dear Ms. Hill:

Attached are responses to questions forwarded to me by your letter of April 27, 1989, regarding my testimony before your Subcommittee on April 12, 1989, on the Federal Government's use of trusteeships under the RICO statute.

If you have any questions about the enclosures please contact Daniel R. Dzwilewski of the Congressional Affairs Office at 324-4515.

Sincerely yours,

Floyd I. Clarke

Floyd I. Clarke
Executive Assistant Director -
Administration

Enclosures (18)

(17) **QUESTION**:

What is the present FBI policy on providing intelligence information and other similar assistance to a trusteeship?

ANSWER:

As civil RICO cases are successfully litigated and remedial court orders issued, the FBI will vigorously investigate and seek prosecution of individuals who violate the court orders. There currently exist Federal, state, and in some jurisdictions, municipal agencies charged with enforcement of administrative and regulatory labor law as well as agencies with oversight responsibility for licensing. The FBI is an investigative agency and does not seek an administrative or regulatory role in receivership administration. Although the FBI is committed to assisting any court-appointed trustee as much as possible, the FBI must ensure that it remains within its legal limitations. Efforts must be taken to ensure that information released to any court-appointed officer meets all the legal requirements for dissemination as well as maintaining the integrity of ongoing criminal investigations and safeguarding the confidentiality of FBI informants. We are currently working closely with the Department of Justice to ensure that every assistance possible will be given to enforce civil RICO court orders and assist any court-appointed officers. Post-judgment relationships with trustees is a new area for all concerned and the FBI policy will be continuously reviewed to enhance the relationships between the FBI and the trustee.

(18) QUESTION:

What is the FBI's role once a trusteeship is established? Should the FBI actively provide assistance to a trustee in order to ensure that the trusteeship is successful?

ANSWER:

The FBI has developed and implemented an Organized Crime National Strategy. One significant aspect of that strategy is the use of civil RICO to attack the economic base of organized crime. Many of the predicate cases utilized in civil RICO litigation are the results of extensive investigative efforts by the FBI. Therefore, it is natural to assume that any court officers appointed as a result of civil RICO litigation would look to the FBI for direction and assistance to ensure compliance with court directives. However, as I have previously stated, the FBI is a law enforcement, not a regulatory agency, that has legal limitations. The relationships between court-appointed trustees and government entities is in its embryonic stages of development. The success of civil RICO litigation in the past has shown a definite need for dialogue between the FBI and court-appointed trustees for the good of all concerned. The FBI has a vast array of information that will greatly assist any court-appointed trustee in fulfilling his duties.

FBI assistance has been rendered to court-appointed trustees in the past (e.g.: In the *United States v. Local 560,* the trustee and FBI agents found fresh acts of racketeering which resulted in further injunctive relief against two former officers who sought to regain union office). In concert with the Department of Justice, efforts are being made to further develop the relationship between these trustees and governmental entities to more effectively utilize civil RICO as a weapon against organized crime.

(19) QUESTION:

Once a civil RICO action is filed, does the FBI take an active role in assisting the U.S. Attorney's Office or Strike Force in trial preparation? For example, what role did the FBI have in the recent IBT suit?

ANSWER:

The theory of a civil RICO suit directed against the La Cosa Nostra and its corrupt stranglehold on the IBT was initiated by the FBI. This theory was developed from successful criminal RICO prosecutions which showed a blatant organized crime control of the IBT. Civil RICO investigations are frequently complex, multiyear investigations that develop information from every investigative technique utilized by the FBI.

In the recently filed civil case, United States v. The IBT, the period of data collection spanned some 18 years--from 1970 to 1988. The investigation produced a vast amount of documents including public statements from congressional and government hearings, judicial proceedings, media investigations, and published articles. In addition to archival retrieval, a review of all persons in the Witness Security Program and debriefing of selected cooperating government witnesses was undertaken to determine their knowledge of, and involvement with, the Teamsters union or its affiliated benefit funds.

Special Agents and support personnel were utilized from all 58 field divisions and from our headquarters staff. Documents were computerized to permit retrieval and information correlation. All collected information had to be reviewed and analyzed for impact on current criminal investigations, and where necessary, documents and information were withdrawn to protect those criminal investigations.

Court orders were obtained to unseal electronic surveillance recordings in previously litigated cases and to permit the civil litigator access to this information. Duplication and storage of all this material became an unanticipated budgetary expenditure of large proportion. Literally millions of documents were collected, reviewed, organized and then reviewed again.

Right from its inception, the FBI worked hand-in-hand with the U.S. Attorney's Office. No one entity could successfully litigate a civil RICO complaint of this magnitude. Past and future successes of civil RICO matters can only be achieved through this cooperative effort.

(20) QUESTION:

Once a trusteeship is established, does the FBI keep a case file open on that trusteeship? Does a Special Agent maintain a liaison with the trustee to ensure that adequate assistance is being provided?

ANSWER:

A case file is not opened on the trusteeship; rather, the original case file, which brought the civil RICO action, may remain in a pending status so as to respond to requests of the Court and the Department of Justice in support of the trustee.

The FBI makes every effort to provide adequate support to the trustee, a non-law enforcement entity, but does so through close coordination with the Department of Justice, the appropriate U.S. Attorney and the Court.

Additionally, Title 18, United States Code, Section 1961 (8), provides a complete and independent jurisdictional basis for the FBI to investigate compliance with civil RICO court orders. When appropriate, the results of these investigative efforts relative to non-compliance will be brought before the court for a determination of any remedial action necessary to effect compliance with the court order.

(21) **QUESTION**:

Please explain what steps the FBI has taken in its Records Management Division to ensure that the defendants in civil RICO proceedings that have been permanently enjoined from an entity or association with the LCN may be monitored by law enforcement to ensure their compliance with the court order?

ANSWER:

The FBI has adapted its record system to record injunctive action ordered against entities and individuals, by indexing these individuals and entities, by name, to the case file requiring the injunctive action. We have also adapted our record system by the placement of "stops" on the electronic surveillance indices. These stop notices will alert the office, which recorded the injunctive relief, that a defendant, subject to a specific civil sanction, had been intercepted on a court authorized electronic surveillance.

In addition, the FBI will request that Federal prosecutors seek the fingerprinting of all defendants as a facet of court ordered relief so that the civil relief can be recorded in the civil records section of the FBI identification records.

(22) **QUESTION**:

Currently, most trusteeships are funded from the entity that is placed into receivership. Would many of the current problems being experienced by the trustees be alleviated if the Government provided an alternative form of funding to the trusteeships?

ANSWER:

In each of the Civil RICO actions decided to date, which involved a labor union, the court has decided to impose remedial action in the form of receivership under the administration of a court-appointed officer--hence, a trusteeship over the union local. The imposition of this relief is only one method available to the court to address a problem defined by circumstances unique to each case. In these cases, the trusteeship was imposed after a court finding of systematic, pervasive, and long term control of the union by organized crime. Implicit in these rulings is the failure of the parent international union to act within the scope of its fiduciary responsibility under statutory authority. As discussed in my statement for the record, the Congress has enacted the Labor Management Reporting and Disclosure Act, which permits labor unions to impose trusteeships upon their subordinated bodies for the purpose of correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements, restoring democratic procedures, or otherwise carrying out the legitimate objectives of the union. The international union has, therefore, abrogated its responsibility and has left it to the government to bring criminal and civil cases against organized crime members and corrupt union officers. Given this failure to act by the parent union which caused the required intervention of the government into union affairs the funding of the court-imposed trusteeship should be borne by the parent union.

In the Teamster settlement all costs of the court-appointed officers, their staffs, and ancillary support will be paid by the International Brotherhood of Teamsters. This "funding solution" provides a method of appeal to the District Court for resolution of cost and expense conflicts.

An alternative method of funding for the court-imposed trusteeship would be government funding. Upon initial suggestion, this funding source appears to be a viable solution to effect the court ordered remedial action. However, government funding is not the solution. The source of all government funds is the American taxpayer--the same taxpayer who is a dues-paying member of the local or parent union upon which the trusteeship is imposed. The local membership has already been victimized by a corrupt leadership and denied participation in union democratic practices. The membership loyally paid dues with the expectation of fiduciary oversight by the parent union of their subordinate body. The allocation of funds from the parent union to rectify its fiduciary failure is an equitable solution to the funding problem.

This funding source, the parent union, is a viable alternative to alleviate "trusteeship bankruptcy" and to encourage union self-regulation.

(23) QUESTION:

During the course of a criminal RICO investigation, using the enterprise theory of investigation, is it possible to parallel the criminal investigation with a civil RICO investigation? If not, what are the problems with this approach?

ANSWER:

At the institution of a criminal investigation the FBI does not conduct a concomitant civil investigation. This is primarily due to the fact that some criminal investigative tools and techniques, such as the Federal grand jury, are not available to the investigator in furtherance of a civil investigation. Also, some civil investigative techniques, such as depositions, are not available to the investigator in furtherance of a criminal investigation. In RICO investigations that have been successfully litigated by the government, such as United States versus Local 6A Et Al, United States versus Local 560 Et Al, and United States versus Local 814 Et Al, the decision to proceed with the civil case was made at the conclusion of the criminal investigation.

(24) QUESTION

The settlement agreement in the IBT suit does not impose a trusteeship, as originally sought by the Government, nor does it remove from office those IBT officers which the Government originally sought to remove. On the other hand, the agreement does, for the first time, impose a system of court-appointed supervision over the IBT. Are you pleased with the terms of the settlement agreement?

ANSWER

The FBI is pleased with the terms of the settlement agreement which met the FBI's goal to rid the IBT of the stranglehold which the La Cosa Nostra has on it. Almost all of the LCN defendants have signed consent agreements in this matter and there is currently pending a court judgment against the LCN as an entity. The settlement in this matter is certainly viewed by the FBI as a success and we look forward to working with the court-appointed officers to assist them in ridding the IBT of its years of corruption and dominance by the LCN.

(25) QUESTION

To what extent was the FBI involved in the decision to settle the IBT suit? Was the FBI consulted prior to the signing of the settlement agreement? Did the FBI support the decision to settle the suit?

ANSWER

The FBI worked closely with the prosecutors of the Southern District of New York during the entire Civil RICO investigation and prosecution against the IBT. As litigation of this matter progressed, the negotiations between the government and the defense attorney was left to the prosecutors. Although advised of the negotiations being initiated, the advice of the FBI was not sought concerning a settlement; however, the FBI has and does support the settlement in this matter and views the entire project as extremely successful.

(26) QUESTION:

What type of support is the FBI preparing to provide to the IBT administrators? In view of the importance of this case, is the FBI committed to working with the court-appointed administrators?

ANSWER:

The IBT settlement in this litigation represents the culmination of 18 years of intense and wide ranging investigative effort by hundreds of FBI Special Agents throughout the United States. This litigation publicly exposed the LCN's corrupting presence and influence in and over the Teamsters union and its executive officers. Within the FBI, this settlement is viewed as a landmark: the single most significant labor racketeering victory ever achieved in our organized crime program.* This settlement is the cornerstone of the FBI's national strategy to divest the LCN of its economic base. However, the job is only half completed. The settlement provides for the establishment of court-appointed officers to effectively rid the LCN of its stranglehold over the IBT. To complete this task, it will be necessary for the FBI, DOJ and the U.S. Attorney's Office, to establish a working relationship with these officers. Much can be gained by all concerned if a concerted effort can be made to ensure compliance with this settlement court order. Ever since this settlement was reached, the FBI has been working with the Department of Justice to enhance the means to establish a method of communication so that both entities can be of assistance to these court officers as soon as they are appointed. The LCN grip on the throat of the IBT has begun to weaken with this Civil RICO litigation. The FBI will vigorously pursue its efforts to rid the IBT of the LCN dominance utilizing the remedies imposed by this Civil RICO whenever possible, including assisting the court-appointed officers to the extent that is legally permissible.

*With the summary judgment against the Commission of the LCN, the FBI for the first time has a tool to use against an LCN member/associate who has dealings with labor unions. Additionally, in the Teamster settlement a permanent injunction was obtained which prohibits union members from knowingly associating with LCN members. These civil remedies provide law enforcement with powerful tools not available through individual criminal prosecutions and will enhance achievement of our goals as set forth within the Organized Crime National Strategy.

(27) QUESTION:

What steps can be taken to protect an FBI informant under the Federal Rules of Civil Procedure? Does the protection of an informant's identity weigh heavily in the Government's decision to file a civil RICO action?

ANSWER:

As the committee is aware, the use of informants is an extremely effective investigative tool in organized crime cases. At present, the identity of an FBI informant is provided qualified protection in criminal and civil matters by the government's informant privilege. This judicially created privilege allows the government to keep the identity of an informant confidential except in certain limited circumstances. In a civil case governed by the Federal Rules of Civil Procedure (FRCP), the government is required to disclose any relevant information relating to a material issue except when the information is protected by a government testimonial privilege. In a civil case, when the identity of an informant is sought as being relevant to a material issue, the government may attempt to prevent the disclosure of informant's name by asserting the informant privilege. However, as a qualified government privilege, the trial court has the discretion to overrule the government's privilege claim and order the disclosure of the informant's identity.

While the current judicially created informant privilege has worked reasonably well in criminal cases, the broad scope of civil discovery rules has raised concerns about potential court-ordered informant disclosures in Civil RICO actions. Since the FBI fosters an active informant program, any involuntary disclosure of an informant's identity damages the credibility of the informant program and hurts our investigative effort. Therefore, the FBI very carefully reviews any possible informant disclosure issues prior to civil RICO action.

(28) QUESTION:

Do you have any specific recommendations regarding civil RICO or trusteeships?

ANSWER:

In my statement for the record, I discuss the placement of a union in court-ordered trusteeships as a judicially derived solution to a unique case fact situation which represents only one form of remedial action utilized by the court, to date, in addressing this problem. In answer to an earlier question, I discussed alternative sources of funding for court-ordered trusteeships. Trusteeship funding by parent unions is a viable and practical alternative to resolve "local union bankruptcy" which threatens the implementation of the court order or the less desirable alternative government agency funding.

To facilitate trusteeship administration and operation, I would encourage the court appointment of at least two officers; an administrator (trustee) and an investigation's officer, to clearly delineate areas of responsibility. This separation of responsibility would enhance their performance and alleviate membership apprehension concerning the duties of the court-appointed officers.

As an administrative matter, the public, the affected industry and union, and all Federal, state, or municipal government agencies should be given timely notice of the court-ordered trusteeship as well as the duties and responsibilities of the court officers. This timely notice would permit early access to the trustee.

Federal agencies should undertake a review of their investigative and regulatory areas of responsibility to determine what assistance could be provided to a court-imposed trusteeship pursuant to civil RICO action. Thereafter, policy statements could be developed and promulgated to disseminate this information to the trustee. Perhaps, the Department of Justice could serve as the coordinator of this review and the point of contact for information distribution. These functions should be vested within the Department of Justice because of their primary role in bringing the litigation and their sustained involvement with the court to assure court-ordered remedial relief is most effectively executed.

In a similar view, the Department of Justice could assemble and disseminate a manual for judicial review and guidance to courts considering trusteeships as remedial civil RICO action. Such a manual could set forth prior examples of trusteeship administration, evaluation of their performance, government agency responsibility and/or available government agency assistance.

In order for property to be criminally forfeited, law enforcement must establish beyond a reasonable doubt that the owner of the property has violated the law and that the property is subject to forfeiture. For civil forfeiture purposes, law enforcement need only establish probable cause to believe the property is subject to forfeiture. Therefore, if the ownership of property cannot be conclusively established by the Government; if the owner of the property was aware of, or facilitated, but did not commit, a violation of the law; or, if it can only be established by a preponderance of the evidence that the owner of the property violated the law and the property is subject to forfeiture, the property could not be criminally forfeited but could be civilly forfeited pursuant to a civil forfeiture statute.

(29) QUESTION:

Do you feel that trusteeships already in operation are succeeding in rooting out corruption and organized crime influence?

ANSWER:

Since the appointment of trustees as part of a settlement of civil RICO actions is a relatively recent occurrence, there hasn't been adequate time to truly assess the effectiveness of the trusteeships. The trustees's role of removing racketeer influences and restoring democracy to unions and industries, which have become dependent upon the racketeering element, requires a drastic change in attitudes among the rank and file. Basically, the trustee has to bring about a cultural change.

In the United States v. Local 560, the trustee and agents found fresh acts of racketeering which resulted in further injunctive relief against two former officers who sought to regain union office. Evidence proved that a Genovese La Cosa Nostra (LCN) capo conspired to retain control of Local 560 through former incumbents, despite the trusteeship, and a prepaid legal service fund was looted by a LCN-connected attorney.

The removal of racketeers does not eliminate a long-standing climate of fear and intimidation. The role of a trustee provides the Court and the rank and file members with a presence to encourage democratization, member involvement, and the protection of member rights.

(30) **QUESTION:**

General President William J. McCarthy and General Counsel James Grady, testifying last week on behalf of the International Brotherhood of Teamsters, suggested three changes to the RICO statute, specifically:

-- an amendment barring the imposition of a trusteeship on any labor union;

-- an amendment barring pre-trial imposition of such remedies prior to a full evidentiary hearing, held on the merits of the underlying allegations; and

-- an amendment barring the Government from preventing the payment of attorney's fees by a Union to defend either the Union itself or its officers, members, etc.

Do you support those amendments? Why or why not?

ANSWER:

The IBT has proposed three amendments to the RICO Statute. These proposals would not improve the statute and are not supported by the FBI. The following comments are noted for each of the proposals:

A. The Bureau concurs with the committee's position that the use of Civil RICO against labor organizations should be limited to extraordinary situations. However, the FBI investigations which documented the rampant LCN corruption in IBT Local 814, IBT Local 560, Roofers Local 30-30B, and the IBT International union presented excellent examples of the appropriate use of Civil RICO. In each of these investigations, the labor organization had an extensive history of violence, corruption, and criminal convictions of union leaders. The only tool available to the government to address the pervasive corruption in each of these organizations was the RICO Statute. In this regard, in each of these situations the RICO Statute was used against an LCN dominated labor organization, the overall results have been very successful in removing LCN corruption. The recent testimony of the various trustees currently in place as a result of the RICO Statute certainly support the positive effects on the various unions. Therefore, in view of the positive experience of the FBI in using Civil RICO against LCN corrupted labor unions, any change exempting labor unions from RICO would be counterproductive to effective law enforcement.

B. The IBT proposal to bar pre-trial relief is also not supported by the FBI. At present, the RICO Statute allows the government to apply to the trial court for pre-trial relief pending a full hearing on the merits. Generally, this provision allows the government to prevent the dissipation of enterprise assets and maintain the status quo until a full evidentiary hearing is held. Since the government only uses Civil RICO in extraordinary situations involving significant LCN corruption, any request for pre-trial relief is based upon information which indicates that the defendants will dissipate union assets. Additionally, the decision to grant pre-trial relief is determined by an impartial trial judge based upon detailed information provided by the government to which the defendants have the opportunity to respond. If pre-trial relief were not available to the government, the defendants would have an opportunity during the period prior to the evidentiary hearing to destroy evidence, convert union property, or dissipate union assets. If this were allowed to occur, a government trusteeship in this type of situation would be a hollow victory over a bankrupt shell.

C. Union officers are free to authorize union funds to be expended in the defense of the union. An amendment to preclude the government from preventing the reimbursement of attorney's fees by a union to defend union officers prior to determination of liability could produce results which are contrary to the aims of society, the law, and effective law enforcement. In addition, such an amendment of the RICO Statute may produce results which are detrimental to unions and their members. In civil RICO actions filed regarding pervasive corruption and LCN domination and control of unions, such as the cases involving IBT Local 814, IBT Local 560, Roofers Local 30-30B, Laborers Local 6A, and the IBT International union, an amendment to the RICO Act precluding the government from preventing the payment of such legal fees might permit an additional draining of union funds by corrupt union officials, or permit a corrupted union to use union funds to defend the interests of those who have corrupted the union. Where LCN domination and control is present, a labor organization may be forced to pay such legal fees, not out of legitimate union interests, but because patterns of fear, intimidation, and entrenched corruption have made the union responsive to the needs of corrupt officials and LCN members, not to the needs of the organization or its rank and file members. In effect, a victim organization can be forced to subsidize the defense of its victimizers through payment of legal fees. Corrupt union officers who have sufficient control of the union, could also use inflated attorney's fees to loot the union funds. If the government is precluded by amendment from preventing the payment of attorney's fees by a union in RICO cases, the best interests of unions and their rank and file members may be ignored to the benefit of corrupt union officials and members and associates of LCN. When cases arise regarding union corruption, the government must be able to act at the outset of the action to preclude the payment of legal fees for union officers, in order to preserve the assets of the union for the benefit of the union members and the organization. If the government was forced to wait until the conclusion of trial and/or appeals in a case involving union corruption, lengthy additional litigation might be necessary to recover funds expended by a union to pay legal expenses, where the court has found defendants to have engaged in corrupt union activities. At the conclusion of legal actions, sufficient funds or assets may no longer be available to reimburse the union for funds improperly spent on legal expenses. While legal actions are pending, the union would be without the funds, which could otherwise be used for the membership or to free the union from its past corrupt influences. Courts, including the United States Court of Appeals for the Second Circuit, have addressed this issue regarding use of union funds to pay legal fees of union officers and have concluded that the government may move to prevent the payment of such legal fees prior to determination of liability. It is improper, in the circuits in which decisions have been entered, for a union leadership to allow union funds to be paid for an individual union officer's defense on charges of corruption, prior to a full determination of the merits, and then only in the event that the union officer prevails. Therefore, to restrict the government from bringing to the attention of the court that which is improper would be contrary to existing law intended to protect the interests of union members.

(31) QUESTION:

Aside from the Office of Labor Racketeering, to what extent have you worked with the Department of Labor in preparation of these cases? Have you been satisfied with their cooperation?

ANSWER:

Aside from the Office of Labor Racketeering, the FBI participated with the Department of Labor's Office of Labor Management Standards and Pension Welfare Benefits Administration during the preparation of the Civil RICO suit against the IBT. The Office of Labor Management Standards and the Pension Welfare Benefits Administration provided records which proved to be of great assistance to the case. Of the Civil RICO suits which the FBI has been involved in, to date, the Department of Labor's participation has been most significant in the IBT case. The Office of Labor Management Standards was particularly enthusiastic in their support, and the FBI is most appreciative of the Department of Labor's overall cooperation.

(32) QUESTION

Has the FBI or the Justice Department made any effort to work with organized labor--such as the AFL-CIO--in educating the rank and file as to the Government's intent in filing civil RICO suits?

ANSWER

The FBI is a law enforcement agency committed to fulfilling its investigative duties imposed upon it by the Congress of the United States. The FBI is prepared to investigate any criminal or civil violations of laws within its purview. It is not the purview of the FBI to educate organized labor concerning filing of any civil RICO suits by the government. However, since the settlement of the Civil RICO suit against the IBT and the testimony of AFL-CIO President Lane Kirkland before this Committee, an extensive meeting was held with Mr. Kirkland by the FBI for the purpose of explaining the FBI's interests and jurisdiction in labor-related matters and to seek the support of the AFL-CIO in eradicating corruption in the labor movement.

(33) QUESTION

Mr. Clarke, in a statement for the record, Peter R. Ginsberg, Assistant United States Attorney for the Eastern District of New York, listed the following recommendations for amendments to the RICO statute:

- an amendment specifying divestiture/disgorgement as an equitable remedy available in the RICO statute, where the ill-gotten gains would be placed into a fund for victims of the wrongful activity;
- an amendment giving a trustee the statutory authority to sue for equitable relief;
- an amendment specifying restitution as equitable remedy available in the RICO statute;
- an amendment lengthening the statute of limitations regarding legal relief allowed by RICO;
- an amendment to the Federal Rules of Criminal Procedure creating an exception to Rule 6(E) to allow Government attorneys to share Grand Jury information in regard to civil RICO actions;
- an amendment specifying that Federal Rules of Civil Procedure are applicable to section 1964 of RICO.

Do you support these amendments? Why, or why not?

ANSWER

The FBI certainly supports any amendments, such as these, which will enhance the effectiveness of these statutes. However, the FBI must defer a definitive response until these amendment recommendations have been thoroughly reviewed by the Department of Justice.

(34) QUESTION

In the early 1980s, this Subcommittee found a lack of interest in criminal prosecutions and law enforcement investigations at the Labor Department. Do you feel that that problem has been solved? Do you receive adequate support in criminal investigations from the Department of Labor, in terms of both referrals and responses to requests for information and assistance?

ANSWER

As this Committee is aware, the FBI and the Department of Labor are two distinct entities. As part of its overall Organized Crime National Strategy, the FBI is actively pursuing labor racketeering matters and as a result, these matters often are of a concurrent nature with the Department of Labor. Although I cannot speak of the endeavors of the Department of Labor on criminal matters in which they have exclusive jurisdiction, it has been the experience of the FBI that in matters of mutual investigative interest, the cooperation and coordination between the FBI and the Department of Labor has been very effective and productive.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 1

LABOR RACKETEERING
Boston
New York
Miami

On 4/4/84, ALPRO provided the following information:

Source advised that JACKIE PRESSER has approached BILLY MC CARTHY, International Vice President, IBT, regarding his replacing RAY SCHOESSLING when he (SCHOESSLING) retires. PRESSER has further indicated that before any action is initiated in this regard, that MC CARTHY must obtain the "appropriate endorsements". MC CARTHY indicated to PRESSER that he (MC CARTHY) would have to make contact with "RAYMOND". (RAYMOND PATRIARCA).

Source advised that PRESSER got the word through HAROLD FRIEDMAN, International Vice President, Cleveland, that contact had been made with TONY SALERNO. FRIEDMAN was in Miami about a month ago for a bakers union convention and CARMINE DE ANGELO also an officer in the bakers union in Miami, approached FRIEDMAN and advised him that MC CARTHY's attorney, JIMMY LNU, had approached him (DE ANGELO) and asked him (DE ANGELO) to put in a good word for MC CARTHY for Secretary-Treasurer for the International with TONY SALERNO. DE ANGELO speculated that JIMMY LNU was in Miami to talk to SALERNO regarding this matter and was requesting him (DE ANGELO) to support his (JIMMY LNU's) request.

THE ABOVE INFORMATION IS SINGULAR IN NATURE AND NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-257

Memorandum

Exec AD Adm. ___
Exec AD Inv. ___
Exec AD LES ___
Asst. Dir.:
Adm. Servs. ___
Crim. Inv. ___
Ident. ___
Insp. ___
Intell. ___
Lab. ___
Legal Coun. ___
Off. Cong. & Public Affs. ___
Rec. Mgnt. ___
Tech. Servs. ___
Training ___
Telephone Rm. ___
Director's Sec'y ___

To : Mr. Revell

Date 4/19/84

From : S. M. McWeeney

OMP

Subject : ALPRO

PURPOSE: To apprise of action being taken by General President Jackie Presser to elevate William J. McCarthy to the position of General Secretary-Treasurer, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Independent (IBT).

RECOMMENDATION: None. This is for your information.

APPROVED:
Director ___
Exec. AD-Adm. ___
Exec. AD-Inv. ___
Exec. AD-LES ___
Adm.Servs ___
Crim.Inv. ___
Ident. ___
Inspection ___
Intell. ___
Laboratory ___
Legal Coun. ___
Off. of Cong. & Public Affs. ___
Rec. Mgnt. ___
Tech. Servs. ___
Training ___

DETAILS: On 4/4/84, ALPRO advised SSA Robert Friedrick, Cleveland, and SSA Jim E. Moody, OCS, FBIHQ, that several members of the General Executive Board, IBT, are contemplating retirement. Among those who have expressed a desire to retire are Ray Schoessling, General Secretary-Treasurer, and George E. Mock, First Vice President. Other individuals who may lose their positions on the General Executive Board due to pending prosecutions and investigation include Salvatore Provenzano, Fifth Vice President; M. E. Anderson, Tenth Vice President; and Maurice R. Schurr, Thirteenth Vice President. ALPRO advised that many of these individuals are supported by various LCN families throughout the United States. For instance, Schoessling and Anderson "belong" to the Chicago LCN family. Provenzano "belongs" to the Genovese LCN family. Jackie Presser reports to the Genovese LCN family through the Cleveland LCN.

159-4733-244 X

ALPRO continued that the General Secretary-Treasurer of the IBT holds a position equal, if not more powerful and significant, to the General President of IBT. The Chicago LCN can place an individual in that position who can subvert the position of the General President. If Schoessling should retire ALPRO anticipates the Chicago LCN family would replace him with Donald Peters, Fourteenth Vice President.

27 SEP 19 1984

ALPRO advised that William J. McCarthy, current Fourth Vice President, greatly desires the position of General

2-Mr. Moody
JEM:mh (3)

AUG 02 1985

Secretary-Treasurer. McCarthy will provide a signed, undated memorandum of resignation from the position of General Secretary-Treasurer to Presser the General President upon achieving that position. To date, Schoessling has not advised the Chicago LCN of his desire to retire. McCarthy, on the other hand, must obtain the approval and backing of LCN boss Raymond L. S. Patriarca for his elevation to the position of General Secretary-Treasurer.

ALPRO stated the President, IBT, and McCarthy recently discussed McCarthy's replacement of Schoessling. McCarthy told Presser that he would obtain the approval and backing of Patriarca for his promotion. ALPRO anticipated that Patriarca will then contact Anthony Salerno, boss of the Genovese LCN family in New York City. ALPRO advised that Presser currently reports to Salerno through the acting boss of the Cleveland LCN--John Tronolone.

DE-105

LABOR RACKETEERING
New York
Boston

On April 21, 1984, source provided the following information:

Source advised that BILLY MC CARTHY, Fourth Vice President, IBT, met with JACKIE PRESSER, General President, in Phoenix last week at a Teamster Executive Board meeting. PRESSER indicated to MC CARTHY that he (PRESSER) had not received any word back from MAISHE ROCKMAN as to whether or not MC CARTHY had been approved by New York to replace RAY SCHOESSLING as General Secretary-Treasurer. MC CARTHY indicated that his "contact" (believed to own a trucking company in the Boston area and not an attorney as previously reported) was supposed to "see" TONY SALERNO, but he (MC CARTHY) had no information regarding this meet.

THE ABOVE INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND IS NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-260

RE: ALPRO
RICO
Q [redacted]

RE: MILTON ROCKMAN, aka.,
Maishe
ET AL
RICO
Q [redacted]

RE: JOHN PASQUALE TRONOLONE, aka.,
Et al
RICO-ECT;
G [redacted]

On June 6, 1984, CV 3963-TE provided the following information:

Source advised that FNU ROSSETTI is no longer being considered to replace FRED ROBERTO, Local 191, as a General Organizer for the IBT. This is because of ROSSETTI's problems with the federal government. MAISHE ROCKMAN supposedly met with JACKIE PRESSER and told him (PRESSER) that there was too much "heat" on ROSSETTI. "CHICKIE" PIZANO is being considered to replace ROBERTO. It is further hoped that PIZANO will replace SAMMY PROVENZANO as International Vice President once he (PROVENZANO) steps down.

Source advised that MAISHE ROCKMAN has indicated that PEANUTS TRONOLONE, acting boss of the Cleveland family, has recently spoken to the "New York people" about JACKIE PRESSER appointing BILL MC CARTHY, International Vice President from Boston, as a replacement for RAY SCHOESSLING, International Secretary/Treasurer, who is to retire soon. ROCKMAN informed PRESSER that "New York" does not know MC CARTHY. ROCKMAN inquired of PRESSER whether or not some one could be appointed as Secretary/Treasurer of the International outside the sixteen International Vice Presidents. PRESSER advised ROCKMAN that the Secretary/Treasurer selected must be one of the International Vice Presidents or he (PRESSER) will have an "insurrection" on his hands.

Source advised that PRESSER gave ROCKMAN copies of profiles of all the International Vice Presidents for review by TRONOLONE and the "New York people".

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LABOR RACKETEERING
New York
Cleveland

On June 26, 1984, Source provided the following information:

Source advised that TRONOLONE was in Cleveland within the last two weeks and met with MAISHE ROCKMAN. TRONOLONE indicated to ROCKMAN that SALERNO, would decide within the next two weeks on a replacement for RAY SCHOESSLING, Secretary/Treasurer, IBT who plans to retire soon. Source further indicated that this information would be relayed to JACKIE PRESSER through ROCKMAN. Specifically, someone "from the east" will get the word to ROCKMAN.

THIS INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-272

LABOR RACKETEERING
New York
Chicago
Kansas City

On July 22, 1984, Source provided the following information:

Source advised that MAISHE ROCKMAN recently went to New York and hired Attorney ROY COHN to "assist" in his case in Kansas City. Source believed that ROCKMAN hired COHN in order to have a reason to travel to New York to discuss Teamster matters with TONY SALERNO.

Source further indicated that subsequent to his (ROCKMAN) trip to New York last week, ROCKMAN met with JACKIE PRESSER to discuss a replacement for RAY SCHOESSLING who is stepping down as Secretary-Treasurer of the International Brotherhood of Teamsters (IBT) at the end of August, 1984. ROCKMAN requested that PRESSER consider JOE MORGAN, International Vice President, or DON PETERS, International Vice President, as a replacement for SCHOESSLING. PRESSER is very concerned about these two individuals because of their connections with the Chicago family. ROCKMAN is "pushing" these individuals in order to pacify Chicago who is putting the word out that PRESSER is an FBI informant. In addition ROCKMAN is trying to ingratiate himself with the Chicago and Kansas City families in order to help himself in his forthcoming trial in Kansas City. PRESSER's choice to replace SCHOESSLING is BILLY MC CARTHY. PRESSER feels that MC CARTHY is straight and will be loyal to himself and the Teamsters.

ROCKMAN has a pre-trial hearing in Kansas City on July 26, 1984, and is expected to meet with the Chicago people to discuss the above.

THIS INFORMATION IS SINGULAR NATURE AND IS NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-276

LABOR RACKETEERING
New York
Boston
Cleveland
Chicago

On August 26, 1984, SOURCE provided the following information:

Source advised that MAISHE ROCKMAN was going to travel to New York on Tuesday, August 28, 1984, to see his attorney, ROY COHN. SOURCE believes the real purpose is to check on JACKIE PRESSER's "status" with TONY SALERNO.

Source further advised that JACKIE PRESSER is very much concerned about a replacement for General Secretary-Treasurer RAY SCHOESSLING, who is going to retire October 1, 1984. PRESSER is receiving "pressure" to appoint DON PETERS, International Vice President, Chicago. Supposedly, MAISHE ROCKMAN is attempting to work out some type of a deal for himself with Chicago and PRESSER believes MAISHE may attempt to get New York to agree to DON PETERS as a replacement for SCHOESSLING.

THIS INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-293

LABOR RACKETEERING
Cleveland
New York
Boston

On September 2, 1984, SOURCE provided the following information:

SOURCE advised that MAISHE ROCKMAN, financial advisor to the Cleveland family, and associate of JACKIE PRESSER, recently traveled to New York where he met with TONY SALERNO, purportedly in attorney RAY COHN's office.

SOURCE indicated that subsequent to the above meeting, PRESSER was informed by ROCKMAN that JOSEPH TREROTOLA would be a "good replacement" for RAY SCHOESSLING who is retiring soon as General Secretary-Treasurer of the International Brotherhood of Teamsters. SOURCE stated that PRESSER's first choice to replace SCHOESSLING is BILL MC CARTHY, Boston, but that the New York families do not trust him (MC CARTHY).

THE ABOVE INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-291

LABOR RACKETEERING
Boston
New York

On September 12, 1984, SOURCE provided the following information:

SOURCE advised that BILLY MC CARTHY, International Vice President, Teamsters, is not liked by the New York families. When information reached FNU PATRIARCA, former boss of the Boston family (deceased), that JACKIE PRESSER was considering MC CARTHY as a replacement for RAY SCHOESSLING, International Secretary/Treasurer, who is stepping down, PATRIARCA was upset. Allegedly, someone had installed a wiretap on a telephone used by MC CARTHY. MC CARTHY was overheard making extremely derogatory comments about Italians which infuriated PATRIARCA.

SOURCE further advised that JOSEPH TREROTOLA, International Vice President, New York, has been selected by JACKIE PRESSER to replace SCHOESSLING when he steps down. TREROTOLA is concerned about his son and the "bad rap" he believes he will receive from SAMMY PROVENZANO over this appointment. SOURCE advised that "the man" told TREROTOLA not to worry that he would take care of any problems. "The man", according to the SOURCE, is TONY SALERNO. If PROVENZANO steps out of line with TRERROTOLA, MATTY "THE HORSE" IANIELLO will tell PROVENZANO "where to get off".

THIS INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

159-4733-286

RE: MILTON ROCKMAN, aka.,
Et al
RICO
G [redacted]

RE: STRAWMAN
RICO
G [redacted]

RE: ANTHONY SALERNO, aka.,
Et al
RICO
G [redacted]

RE: JOHN PASQUALE TRONOLONE, ak
Et al
RICO-NARCOTICS
G [redacted]

On October 19, 1984, CV 3963-TE, provided the following information:

Source advised that MAISHE ROCKMAN travelled to New York this week to meet with ANTHONY SALERNO. The purpose of the meeting was to obtain SALERNO's approval for JACKIE PRESSER to appoint WELDON MATHIS, International Vice President, as a replacement for RAY SCHOESSLING who is the retiring General Secretary-Treasurer.

Source further indicated that ROCKMAN planned to travel to Miami subsequent to this meeting, to advise JOHN "PEANUTS" TRONOLONE that SALERNO had approved MATHIS.

THE ABOVE INFORMATION IS SINGULAR IN NATURE, HIGHLY SENSITIVE, AND IS NOT TO BE DISSEMINATED OUTSIDE THE BUREAU IN ORDER TO PROTECT THE IDENTITY OF THE SOURCE.

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American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

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Kenneth J. Brown
Lynn R. Williams

Senate Permanent Subcomm
on Investigations

EXHIBIT # 2

January 15, 1985

The Honorable William V. Roth, Jr., Chairman
Senate Permanent Subcommittee on Investigations
United States Senate
Committee on Governmental Affairs
Washington, D.C. 20510

Dear Senator Roth:

I am taking the opportunity for a few moments of reflection provided by the period of relative quiet between Election Day and the first working day of the 99th Congress to respond to inquiries worthy of serious thought such as those posed in your letter concerning the Permanent Subcommittee on Investigations' Report on the Investigation of the Hotel Employees and Restaurant Employees International Union and the resulting "legislative proposals designed to tighten current federal laws governing union activities" you introduced in the last Congress.

I do have a comment or two on the Labor Trusteeships and Fiduciary Amendments bill to add to the comments on the legal technicalities furnished to the Investigations Subcommittee's legal counsel by a group of AFL-CIO legal counsel. It seems to me helpful in framing my point to begin by comparing the central question raised by the proposed Labor Trusteeships bill and the question raised by the Investigations Subcommittee's other recent legislative proposal of direct interest to the labor movement — the bill that became the Labor-Management Racketeering Act.

The AFL-CIO supported the Racketeering Act, with certain amendments we suggested, because, as much as we prize our autonomy, there are some matters that are beyond the effective power of private groups; high on that list is the detection of serious criminal wrongdoing and the protection of those who wish to conduct their affairs honorably against the predations of those who are not so inclined.

The question of how organizational authority is to be shared among related national, regional and local labor organizations is, I suggest, at the furthest extreme from the question of whether individuals convicted of serious crimes should be allowed to hold a fiduciary responsibility. While the latter is one that is sufficiently clear cut to call for an exercise of public power expressed in a hard and fast legal rule, the former is not.

18-343B-471

The history of this country shows that there are a myriad of "federal arrangements" that are entirely consistent with our democratic traditions; the balance of power between larger and smaller groups has been struck differently in different times and under different circumstances. What that balance should be in the public sector has been and continues to be a controversial issue at the very heart of our politics. Given its quicksilver nature, how a group of working men and women who band together to form a trade union allocate and, from time to time, reallocate organizational authority is, therefore, preeminently a question those union members should be free to decide for themselves and that should not be decided for them by the society as a whole through a public law.

Thus, it is my view that amendments to Title III of the Labor Management Reporting and Disclosure Act of 1959 that would make the present rules more confining and that would, in addition, expand that Title's scope should not be enacted. The Investigations Subcommittee's adverse reactions to the trusteeship and merger policy of the Hotel Employees and Restaurant Employees International Union does not move me from that position.

It is not that we in the labor movement do not respect, and do not gain in our continuing effort to master our responsibilities from, the weight of your informed opinion; we do. Rather, it is that there is no escape from the imperfect exercise of freedom and, that being so, perfection cannot be the test of whether private groups are to remain free to set their own rules. In order to justify legislation that displaces that freedom, it is necessary at the very least to demonstrate that the proposed public law rules are superior to the private group's rules taken on the average.

I am confident, based on my knowledge of the labor movement, that, with the rarest exceptions, the rules regarding the relationship between international unions and their affiliated intermediate and local bodies, and the application of those rules to concrete situations, are sound and sensible. There is no reason to believe that the Secretary of Labor or a Federal Judge is better able than the union itself and its members to mold each labor organization to its proper form. There is, indeed, no agreed-on method for evaluating the systems whereby related labor organizations allocate authority nor even agreement on whether all labor organizations — no matter what their history, the nature of their industry, their size, and the views of their members — should do so in the same way. To use a phrase from your letter for my purposes, it is precisely because there is no consensus on what is and what is not "undue [International Union] control over local union affairs," that a federal law that defines what control is "due" and what is "undue" is unwise legislation.

You inquire, too, on my reaction to the "Subcommittee's recommendation regarding union officers who invoked the Fifth Amendment in lieu of answering questions." The AFL-CIO's Policy Resolution on Fifth Amendment Cases attempts to do justice to the delimma posed. In 1957 the Federation's Convention stated "'that any person is entitled, in the exercise of his individual conscience, to the protection afforded by the Fifth Amendment' and reaffirm[ed] the conviction 'that this historical right must not be abridged.'" Accordingly, the Convention rejected the suggestion that "'automatic' expulsion of any trade union official who invokes the Fifth Amendment" is the proper course. Rather, where an official of an AFL-CIO affiliate invokes the Fifth Amendment, the Convention concluded that "an investigation is required by the affiliate involved into the fitness of the official to continue to hold office. If it is found that the Fifth Amendment was in fact invoked as a shield to avoid discovery of corruption on his part, he has no right to continue to hold trade union office."

The proposition that judgments on the propriety of invoking the Fifth Amendment depends on an inquiry into all the facts and circumstances made good sense 27 years ago and continues to make good sense today. I add only that the intervening years have brought home to me the sobering truths that unions are poorly equipped to uncover the facts concerning allegations of corruption or claims that the Fifth Amendment has been invoked as a shield to avoid discovery of corruption, and that the government, in large part through the efforts of the Investigations Subcommittee, is now superbly equipped to secure evidence of corruption, to make the proper allegations in an indictment where there is such evidence and to attempt to prove those allegations in open court in the manner provided for in our criminal justice system.

You are also kind enough to express an interest "in any comments [I] may have regarding the conclusions and recommendations found in the HEREIU Report." The events related there are complex; there are, as I am certain you would acknowledge, two sides to the story and I have not had the opportunity to hear the witnesses or read the documentary material from which the Subcommittee drew its conclusions. But, even if the Investigations Subcommittee's judgments are warranted and the bleakest construction is placed on the evidence assembled, it does not follow that still more federal legislation regulating unions is warranted.

As I have stressed, a super-abundance of statutory power and enforcement zeal and resources already reposes in the hands of the law enforcement authorities where labor is concerned. I only wish that I could feel confident in its fair and proportionate use in a society where problems and abuses in other callings are so much more rampant and where leaders in the business and other vital spheres cut such a poor figure without exciting even cursory interest much less a governmental response. Unfortunately, so far as I can see, the Labor and Justice Departments seem at least as interested in generating publicity that tarnishes the labor movement's good name as in actions directed at cleansing unions of corroding influences.

Sincerely,

President

fm: LANE KIRKLAND

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October 11, 1988, Tuesday, Home Edition

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 3

SECTION: Part 1; Page 4; Column 1; National Desk

LENGTH: 786 words

HEADLINE: PRESSER HAD CHARGED HIM WITH LINKS TO NEW ENGLAND MOB; TEAMSTERS CHIEF DENIES TIES TO MAFIA

BYLINE: By ROBERT L. JACKSON and RONALD J. OSTROW, Times Staff Writers

DATELINE: WASHINGTON

BODY:

Teamster Union President William J. McCarthy, in a sworn statement to federal prosecutors, has denied that he had ties to the New England Mafia as once charged by his predecessor, the late Jackie Presser.

In a still-confidential deposition he has given in the government's racketeering lawsuit against the giant labor organization, McCarthy contradicted statements by Presser as an FBI informant that McCarthy once claimed he needed permission from New England mob boss Raymond Patriarca to receive a promotion in the union.

It was Presser, not he, who suggested that he should clear his proposed promotion to Teamster secretary-treasurer with "the mob . . . the wise guys," McCarthy insisted in his statement, a copy of which was obtained by The Times.

'Speak to Wise Guys'

"Did you ask Mr. Presser at that time why he had told you to speak to the wise guys?" inquired Randy Mastro, an assistant U.S. attorney in New York.

"I had the impression they had to approve it," McCarthy replied. "I was disturbed, and I didn't like it."

However, McCarthy insisted elsewhere in his 205-page statement that he never had questioned Presser or any other Teamster official during his 50-year union career about charges that the labor organization was influenced by organized crime. McCarthy was not asked to explain why he failed to address this pivotal issue.

Presser, a confidential FBI informant for more than 10 years, told agents of McCarthy's alleged links to organized crime in 1984, according to a secret FBI memorandum disclosed by The Times in July. According to Presser's account, as outlined in the memo, McCarthy asked to be appointed national secretary-treasurer of the Teamsters but said that he needed permission from Patriarca before accepting the promotion.

After relaying this conversation to the FBI, Presser ultimately chose another Teamster official, Weldon Mathis, as secretary-treasurer. Presser, who died of cancer last July while under indictment in a separate criminal case, was succeeded by McCarthy, who defeated Mathis in the union's presidential election.

Heart of Lawsuit

The issue of Teamster links to organized crime is the heart of an unprecedented suit brought last June 28 by the federal government, which sought to oust the union's senior leadership and obtain court appointment of a trustee to oversee new elections for the nation's largest union.

(c) 1988 Los Angeles Times, October 11, 1988

The suit charged that the union's leadership "has made a devil's pact with La Cosa Nostra" to the point where organized crime deprives Teamster members of their rights through a pattern of racketeering -- ranging from 20 murders to innumerable shootings, bombings and beatings -- and a campaign of fear, bribes, extortion, theft and misuse of union funds.

In unusually swift action, U.S. District Judge David N. Edelstein has set trial for February in New York and is pressing attorneys to complete the extensive pretrial fact-gathering process, which includes the questioning of McCarthy.

McCarthy swore that he had never met or spoken with Patriarca or his son, Raymond Patriarca Jr. The elder Patriarca died in late 1984.

He also denied that he knew or had ever met Anthony (Fat Tony) Salerno, a twice-convicted New York crime boss now serving time in federal prison. He made a similar denial about reputed Florida mobster John (Peanuts) Tronolone.

Monitored Conversation

An FBI transcript of an electronically monitored meeting in May, 1984, quotes Tronolone as telling Salerno that McCarthy might be worthy of Salerno's support for the union's secretary-treasurer, regarded as the second most powerful post in the Teamsters.

In denying that he had ever taken an interest in accusations that the Teamsters were close to the Mafia, McCarthy was asked if he had ever discussed with former union Vice President Anthony Provenzano his conviction for murdering a Teamster member in New Jersey.

"No way, no. None of my business," McCarthy replied.

McCarthy said repeatedly that he had dismissed allegations that the Mafia had influenced the elections of Roy L. Williams and then of Presser as presidents of the union.

Under questioning by Mastro, McCarthy acknowledged hearing such an allegation by President Reagan's Commission on Organized Crime, but said that he had never asked Williams, Presser or any other union board member whether there was any substance to the charge.

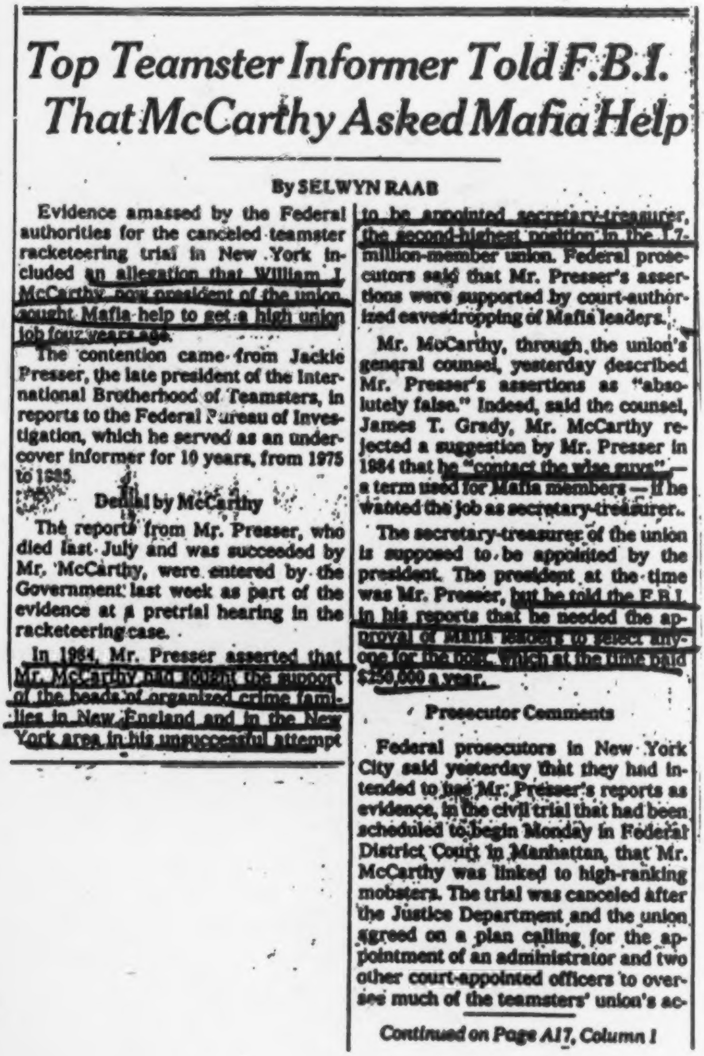
"No, because I didn't believe it," McCarthy said.

At another point, McCarthy said he did not know that Joe Trerotola, a Teamster vice president and member of the executive board, had been identified in a report by the New York State Organized Crime Commission last May as someone associated with the underworld syndicate.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 4

THE NEW YORK TIMES, Friday, 17 March 1989



Top Teamster Informer Told F.B.I. That McCarthy Asked Mafia Help

By SELWYN RAAB

Evidence amassed by the Federal authorities for the canceled teamster racketeering trial in New York included an allegation that William J. McCarthy, now president of the union, sought Mafia help to get a high union job four years ago.

The contention came from Jackie Presser, the late president of the International Brotherhood of Teamsters, in reports to the Federal Bureau of Investigation, which he served as an undercover informer for 10 years, from 1975 to 1985.

Denial by McCarthy

The reports from Mr. Presser, who died last July and was succeeded by Mr. McCarthy, were entered by the Government last week as part of the evidence at a pretrial hearing in the racketeering case.

In 1984, Mr. Presser asserted that Mr. McCarthy had sought the support of the heads of organized crime families in New England and in the New York area in his unsuccessful attempt to be appointed secretary-treasurer, the second-highest position in the 1.7-million-member union. Federal prosecutors said that Mr. Presser's assertions were supported by court-authorized eavesdropping of Mafia leaders.

Mr. McCarthy, through the union's general counsel, yesterday described Mr. Presser's assertions as "absolutely false." Indeed, said the counsel, James T. Grady, Mr. McCarthy rejected a suggestion by Mr. Presser in 1984 that he "contact the wise guys" — a term used for Mafia members — if he wanted the job as secretary-treasurer.

The secretary-treasurer of the union is supposed to be appointed by the president. The president at the time was Mr. Presser, but he told the F.B.I. in his reports that he needed the approval of Mafia leaders to select anyone for the post, which at the time paid $250,000 a year.

Prosecutor Comments

Federal prosecutors in New York City said yesterday that they had intended to use Mr. Presser's reports as evidence, in the civil trial that had been scheduled to begin Monday in Federal District Court in Manhattan, that Mr. McCarthy was linked to high-ranking mobsters. The trial was canceled after the Justice Department and the union agreed on a plan calling for the appointment of an administrator and two other court-appointed officers to oversee much of the teamsters' union's ac-

Continued on Page A17, Column 1

PRESSER REPORTED M'CARTHY-MOB TIE

Continued From Page A1

tivities and to police corruption among them.

The chief prosecutor in the case, Randy M. Mastro, said Mr. Presser's reports, although never admitted as evidence at trial, could be used as evidence by the court-appointed officers if necessary in future disciplinary proceedings to remove Mr. McCarthy and other union officials. The administrator and other officers who will supervise the union have not yet been appointed.

Under civil provisions of the Racketeer Influenced and Corrupt Organizations Act, the Justice Department had sought to oust Mr. McCarthy and 11 other senior teamster officials on charges that they had allowed the union to fall under the control of organized crime. None of the union leaders was removed under the settlement.

A file of about 2,000 expurgated pages containing Mr. Presser's reports to the F.B.I. over the 10 years in which he was a bureau informer was entered into the court records last week by the United States Attorney's office in Manhattan during a pretrial hearing on whether the defense was entitled to review Mr. Presser's file without deletions by the prosecution.

The issue became moot when the trial was canceled.

A longtime teamster official in Cleveland, Mr. Presser died last July at the age of 61 after being president of the national union for five years. At the time of his death, he was facing Federal charges of siphoning union funds to pay organized crime figures for no-show jobs.

Mr. McCarthy, now 69 years old, who led Teamsters Local 25 in Boston for 20 years, was elected president of the national union after Mr. Presser died.

Hundreds of Reports

Under the code name ALPRO, Mr. Presser provided hundreds of reports to the F.B.I. The file entered as part of the record in the teamster case marked the first public disclosure by Federal authorities of much of the information provided by Mr. Presser, although F.B.I. officials had previously said that he had been a valuable informer in efforts to clean up the union.

In six reports filed from April 4, 1984, to Dec. 11, 1985, the F.B.I. said, Mr. Presser discussed attempts by Mr. McCarthy to be appointed secretary-treasurer, the officer responsible for supervising the union's financial transactions.

As president, Mr. Presser had the authority to designate the secretary-treasurer, but in his reports to the F.B.I. he said that organized crime bosses had a veto over whom he could select.

A memorandum on April 19, 1984, from an agent, S. M. McWeeney, to the F.B.I.'s director of investigations, Oliver B. Revell, said that Mr. McCarthy "must obtain the approval and backing of LCN boss Raymond L.S. Patriarca for his elevation to the position of General Secretary-Treasurer."

LCN is an F.B.I. abbreviation for La Cosa Nostra, the name the bureau says is used by the American Mafia. Mr. Patriarca has been identified by the F.B.I. as the organized crime boss of New England before his death in 1984.

Patriarca 'Infuriated'

The April 19 memorandum added: "McCarthy told Presser that he would obtain the approval and backing of Patriarca for his promotion. ALPRO anticipated that Patriarca will then contact Anthony Salerno, boss of the Genovese LCN family in New York."

In other reports, Mr. Presser told the F.B.I. that "the New York families do not trust" Mr. McCarthy and that he had "infuriated" Mr. Patriarca by making derogatory comments about Italians.

Mr. Presser, in the reports, gave differing accounts of how Mr. McCarthy was purportedly trying to get Mr. Patriarca to endorse his candidacy. In one memorandum, Mr. Presser said Mr. McCarthy had used an unidentifed lawyer to approach Mr. Patriarca and Mr. Salerno. In another memorandum, Mr. Presser said he had learned that Mr. McCarthy's "contact" with Mr. Patriarca was the unidentified owner of a Boston trucking company.

Mr. McCarthy was not appointed secretary-treasurer in 1984; the position went instead to Weldon L. Mathis, a teamster official from Atlanta. There is no suggestion in Mr. Presser's reports of any organized crime involvement in Mr. Mathis's selection or any description of how he was chosen.

In the Justice Department's pretrial memorandum about evidence in the racketeering case against the union, prosecutors said they would corroborate Mr. Presser's statements about Mr. McCarthy through the use of court-authorized electronic eavesdropping in 1984.

The eavesdropping included taped conversations in March, April and May of 1984 that Mr. Salerno held in the Palma Boys Social Club in New York's East Harlem section. In the tapes, Mr. Salerno is overheard discussing with other reputed Mafia members the question of who would be designated secretary-treasurer and Mr. McCarthy's name is brought up as having been recommended by other mobsters.

Federal prosecutors in their pretrial memorandum also said they would seek to corroborate Mr. Presser's reports with tapes of intercepted conversations involving Mr. Patriarca that "contain evidence of ties" between the mob leader and Mr. McCarthy.

Aides to Mr. McCarthy said yesterday that he was traveling from Washington to Boston and could not be reached for comment. Mr. Grady, the teamster counsel, said Mr. McCarthy rebutted the allegations by Mr. Presser in a pretrial deposition to Federal prosecutors last August.

In the deposition, Mr. McCarthy acknowledged discussing the secretary-treasurer appointment with Mr. Presser in the spring of 1984 but said that Mr. Patriarca's name had never been mentioned and that it was Mr. Presser who had suggested getting approval from mobsters.

NEW YORK TIMES
MARCH 27, 1989

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 5

Jackie Presser's Secret Lives Detailed in Government Files

By WILLIAM SERRIN

Nine years of newly disclosed information supplied by Jackie Presser as he balanced lives as teamster union leader, lackey of the mob, Presidential adviser and top-level Government informer provide new details of a union shot through with corruption and dominated by organized crime.

The 1,999 pages of documents, mostly records of Mr. Presser's reports to the Federal Bureau of Investigation, describe murders, car bombings, political scheming, mob efforts to mediate union disputes, shakedowns and nepotism. Exorbitant legal fees were paid to lawyers associated with the union, sometimes whether work was done or not, Mr. Presser said, and profits from Las Vegas casinos were illegally skimmed, with mob couriers taking the cash away in suitcases.

The documents were entered into court records just before the Justice Department settled its racketeering case against his union as being controlled by organized crime.

The reports showed that Mr. Presser was apparently a major source of information used in the 1982 indictment and conviction of Roy L. Williams, his predecessor as teamster president, for attempted bribery.

Mr. Presser took over as union president in May 1983. A month earlier, he informed the F.B.I. that he had been told he "had the support of all the East Coast families" in the Mafia and that "he would be the next teamsters' president," the documents say.

His career prospered even though rumors were "on the street" for several years that Mr. Presser was an informer and even that he might be killed. But, the documents show, organized crime leaders refused to believe the talk.

A document dated June 14, 1984, says Mr. Presser had been told that two Chicago men informed Anthony (Fat Tony) Salerno, once the reputed boss of the Genovese crime family, that Mr. Presser was an F.B.I. informer. Mr. Salerno became upset and told the men that he wanted "proof" not "talk." The document says that "supposedly, Salerno threw" the men "out of New York City."

United Press International

Jackie Presser

Feared for His Life

Still, Mr. Presser said he believed his life might be in danger. On Jan. 1, 1986, an F.B.I. summary reported that Mr. Presser believed "there are rumors that the L.C.N. in Chicago would like to see Jackie Presser killed." L.C.N. is an abbreviation for La Cosa Nostra, another term for the Mafia. The F.B.I. documents always referred to Mr. Presser by his full name to hide the fact that he was an informer.

That Mr. Presser, who died of brain cancer last summer, could balance so many lives, let alone not be executed for his informer's role, seems astonishing. As for why he became an informer, there are only theories, among them that it was a way to have an edge on his rivals. The answer may be buried in F.B.I files on Mr. Presser that remain under seal. The public F.B.I. files say only, that Mr. Presser's role as informer began in March 1977. That was one year and eight months after the disappearance and presumed murder of the former teamsters' leader, James R. Hoffa, who had served a prison term.

The documents could have been a powerful tool in the Government's case against the teamsters, but a settlement was worked out just before the case was to go to trial March 13. The settlement calls for three administrators to oversee union activities and for direct election in 1991 of top teamster officers for the first time in the union's 85-year history.

Mr. Presser told the F.B.I. that mob figures selected at least two teamster presidents, including himself, and described how mobsters were placed on teamster payrolls, were given teamster insurance and legal business and extorted or were lent millions of dollars in union and union pension funds.

Quest for Legitimacy

All the while he was telling the F.B.I. that he was participating in the corruption of his union, Mr. Presser was pursuing a public quest for legitimacy dating from his boyhood in Cleveland, where after dropping out of school in the eighth grade he began his career delivering juke boxes. It was a quest in which he largely succeeded. Although contracts eroded and [illegible] lost several hundred thousand members from the late 1970's until the mid-80's while he was a top union leader, he brought the teamsters back into the fold of the A.F.L.-C.I.O. in 1987 after 20 years of banishment on charges of corruption.

He associated with top labor figures and political leaders, even to the point of being welcomed to the White House. He was a part of the team that coordinated the transition from the Carter Presidency to the Reagan Presidency in 1980, was co-chairman of Ronald Reagan's Labor Inaugural Committee in 1984 and was described as a labor adviser to Mr. Reagan.

In 1988, when the Government case against the teamsters was announced, Edwin Meese 3d, who was Mr. Reagan's Attorney General, said Mr. Reagan would not have accepted Mr. Presser's support in his Presidential campaigns if he had believed Mr. Presser had links to organized crime. But "there was no such evidence available at the time," Mr. Meese said.

Mr. Presser's death last July at 61 years of age came just as the Federal Government was bringing him to trial in Cleveland in one of the many ironies of Jackie Presser's life. Much to his anger and consternation, the Justice and

Presser was an F.B.I. informer. As for why, there are only theories.

Labor departments had been building a case against him in a payroll padding scheme, at the same time he was giving highly valued information at grave personal risk to another arm of Government, the F.B.I.

It was the payroll padding case that led to his unmasking as a Government informer, first in The Los Angeles Times in June 1984, and then in court documents in 1986. He had continued to work with the F.B.I. into 1986, even after the newspaper report.

What the F.B.I. Documents Say

What information was he providing? The following are some examples from the F.B.I. documents:

¶Beginning at least in 1979, Mr. Presser reported extensively on Mr. Williams, including personal matters and union and pension fund activities. He said Mr. Williams participated in an arrangement in which a land parcel was to be provided as a bribe in an effort to defeat trucking deregulation legislation in the Senate. Mr. Williams is serving a 10-year sentence in a Federal prison in Missouri after conviction in the bribery case.

¶On May 5, 1983, Raymond J. Donovan announced the Labor Department's settlement of a case against trustees of the union's Central States Pension Fund. On the same day Mr. Presser was telling his F.B.I. handlers that criminal elements would still have a say in the operation of the fund.

¶Mr. Presser indicated to the F.B.I. in June 1983 that Mafia figures wanted anyone who sought to do business with Mr. Presser to go through their people.

Specifically, Mr. Presser told the F.B.I., "Maishe Rockman has indicated that all requests for 'favors' from Jackie Presser, president of the International Brotherhood of Teamsters, have to either come through him (Rockman) or Peanuts Tronolone and that any favors have to have the approval of Tony Salerno, a.k.a., Fat Tony." Milton (Maishe) Rockman and John (Peanuts) Tronolone are identified as Cleveland mob figures. Mr. Rockman was later convicted on racketeering charges and is in Federal prison.

The relationship between Mr. Presser and Mr. Salerno illustrates another paradox about Mr. Presser and his years as an informer. Mr. Salerno was indicted in 1986 on racketeering charges and on charges that he manipulated the selection of Mr. Presser and Mr. Williams as president of the teamsters. Mr. Presser, who was then president of the union, was not named as a defendent nor called as a witness; rather, the Government used testimony from Mr. Williams.

In May 1988, after a 13-month trial, Mr. Salerno was found guilty of racketeering but acquitted on charges of using Mafia influence to fix the elections. Mr. Rockman and Mr. Tronolone also were acquitted in the elections case. In October 1988, Mr. Salerno was sentenced to 70 years in prison in the racketeering case, on top of a 100-year sentence from a previous racketeering conviction.

F.B.I. Valued Presser

The F.B.I. considered the information provided by Mr. Presser to be of the highest value. A bureau memorandum, dated May 1983, said Mr. Presser "has provided quality information on illegal activites at the highest echelons of the International Brotherhood of Teamsters (I.B.T.)" and "information detailing the hidden connections between the La Cosa Nostra (L.C.N.) and the I.B.T." The report said independent sources had in most cases corroborated the information.

The F.B.I. also received important information from another clandestine source in the union, Anthony Hughes, long an associate of Mr. Presser. Reports from Mr. Hughes are also included in the material made public.

In January Mr. Hughes and another associate of Mr. Presser, Harold Friedman, were convicted in the payroll padding case. The two men await sentencing.

Informed on Current Officials

Mr. Presser also informed on teamster officials who are currently in the hierarchy of the union. According to the Government documents, he described William J. McCarthy, who was to succeed him as president, and three teamster vice presidents, Joseph W. Morgan of Atlanta, Donald Peters of Chicago, and Joseph Trerotola of New York, as seeking the support of or having strong ties to organized crime. He also said Mr. McCarthy, then a vice president, sought Mafia help in 1984 to get a high union position.

Mr. McCarthy and the vice presidents have denied engaging in corrupt activities or having associations with organized crime. Under the settlement between the Government and the union, Mr. McCarthy and Mr. Morgan and Mr. Trerotola retain their positions. Mr. Peters was required to sever ties with the union.

Theories About Presser

Several theories on why Mr. Presser became an informer are advanced by those who knew him.

Mr. Presser grew up confronted by prejudice against his Jewish religion. Some informer reports recount tensions between "the Jewish element" and the Mafia in Cleveland. One theory is that his informing was a way of getting back at those he felt had been unfair toward Jewish people.

Then there was his father, William Presser. He was also a teamster leader and also under control of the mob. But Mr. Presser always believed that his father benefited little from this. By informing, some say, Mr. Presser was getting back at the mobsters for not giving enough to his father.

In addition, Mr. Presser was ambitious. Dealing with the F.B.I. may have been a way of obtaining information on union rivals and perhaps, by providing information on illegal activities by them, a way of eliminating competition.

James T. Grady, union general counsel, said Mr. Presser was "using his informant's status to protect himself from the F.B.I. looking at his activities" and "to cast aspersion on his rivals."

Finally, Mr. Presser seemed to love feeling important. He may have enjoyed the excitement the role provided.

Had Mr. Presser not been investigated in the payroll padding scheme, his role as an informer and his unsavory associations may never have been confirmed.

Indictment Initially Rejected

The case against Mr. Presser, which was begun in 1982, was halted by Justice Department officials in Washington as indictment neared in 1985 at least in part because some F.B.I. officials knew Mr. Presser's role as an informer would be revealed if the case went to trial.

But after an outcry, including suggestions that the case was called off because the teamsters had endorsed Mr. Reagan in 1980 and 1984, the Government indicted Mr. Presser.

Mr. Presser's end last July 9, while still under indictment, was lonely and painful. Politicians largely shunned him and union leaders were infuriated at him. He had always been energetic and robust. In his last months, he seemed as weak as a baby; he had lost his hair, and hid this under a cap that seemed too large.

Hours after Mr. Presser was buried on July 12, teamster leaders, some of whom he had informed on, gathered at a restaurant near the cemetery and began discussing who would replace him. Three days later, the teamsters' executive board selected Mr. McCarthy.

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Senate Permanent Subcommittee
on Investigations

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EXHIBIT # 8

FOR IMMEDIATE RELEASE
June 28, 1988

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OUTLINE OF CIVIL COMPLAINT

UNITED STATES V. INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, ET AL.

The United States Government today filed a civil suit asking a federal judge in Manhattan to order free elections and other reforms for the International Brotherhood of Teamsters ("IBT") because the Teamsters' ruling 18-member General Executive Board has allowed the union to be corrupted by La Cosa Nostra members and associates.

Rudolph W. Giuliani, United States Attorney for the Southern District of New York, said the Government's complaint alleges that organized crime has deprived union members of their rights through a pattern of racketeering that includes 20 murders, a number of shootings, bombings, beatings, a campaign of fear, bribes, extortion and theft, and misuse of union funds. Today's complaint marks the ninth time that the Government has brought legal action under the civil provisions of the Racketeer Influenced and Corrupt Organizations ("RICO") statute to eliminate organized crime influence over unions or businesses.

The complaint names as defendants 26 persons alleged to be major La Cosa Nostra members and associates (including the Bosses of six La Cosa Nostra Families) throughout the country. According to the complaint, 25 of those 26 La Cosa Nostra defendants have already been convicted of Teamsters-related crimes (e.g., extortion through threats of labor problems, embezzlement of union funds, illegal labor and benefit fund payoffs, murder, and RICO offenses). Their convictions have all taken place within the last eight years, with some as recently as last month.

Other defendants include the Teamsters' top 18 officials, including IBT President Jackie Presser, who are charged with having committed or aided and abetted acts of racketeering as part of a conspiracy by members and associates of La Cosa Nostra to exercise control of the union. In the complaint the Government asks the court to remove from office any IBT officers found at trial to have committed violations of federal racketeering laws and to appoint a union trustee whose primary responsibility will be to ensure free and fair elections of new officers. As a matter of preliminary relief, the Government seeks injunctions to keep La Cosa Nostra or the "Mafia" out of this union and the immediate appointment of a court liaison officer to discipline Teamsters corruption.

"The Government's complaint is a precise, carefully-drawn legal effort to end La Cosa Nostra's corruption of this union and to implement procedures that will allow the many honest members of the Teamsters to run their own affairs in a democratic manner and participate in General Executive Board elections that are free and fair," Giuliani said. "The Government requests court oversight only for so long as necessary to eliminate organized crime's influence over the Teamsters, to put permanent reforms into place, and to return control of the Teamsters to the many honest working men and women of the union." Giuliani added that the day-to-day operations of most local unions of the Teamsters will not be affected by the lawsuit and those local unions will be able to continue their normal, legal operations without interruption.

The civil case is the result of a lengthy investigation by the U.S. Attorney's Office in Manhattan, the Criminal Division of the Department of Justice and its Organized Crime and Racketeering Section, and the Federal Bureau of Investigation. The Office of Labor Racketeering of the Department of Labor also assisted in the investigation.

The team from the U.S. Attorney's Office that prepared the complaint is led by Assistant U.S. Attorney Randy M. Mastro. The other members are Assistant U.S. Attorneys Marla Alhadeff, Richard Mark, and Allan Taffet, and Peter Sprung, an attorney with the Department of Justice cross-designated as a Special Assistant United States Attorney for purposes of this case.

The Findings Of The President's Commission On Organized Crime

This civil action follows a major investigation by the President's Commission on Organized Crime into La Cosa Nostra corruption of labor unions. In its March 1986 report, THE EDGE: Organized Crime, Business and Labor Unions, the President's

Commission on Organized Crime described the IBT as the union "Most Controlled" by organized crime.

The President's Commission, chaired by Judge Irving Kaufman of the U.S. Court of Appeals for the Second Cirucit, concluded that:

> The leaders of the nation's largest union, the International Brotherhood of Teamsters (IBT), have been firmly under the influence of organized crime since the 1950's. Although many of the hundreds of IBT locals and joint councils operating throughout the country are not criminally infiltrated, organized crime influences at least 38 of the largest locals and a joint council in Chicago, Cleveland, New Jersey, New York, Philadelphia, St. Louis, and other major cities. Former Teamster president Roy L. Williams told the Commission, "every big [Teamsters] local union . . . had some connection with organized crime." These locals operate in the nation's major business and economic centers and include the majority of the union's 1.6 million members. They are the foundation of organized crime's union-wide influence.

The President's Commission found that "[f]or decades, organized crime has exercised substantial influence over the International Union, primarily through the office of the president." The President's Commission labeled past Teamsters Presidents James "Jimmy" Hoffa (1957-67) and Roy Williams (1981-83) as "indisputably direct instruments of organized crime" and said of current Teamsters President Jackie Presser that "Presser's past activities indicate that he has associated with organized crime figures and that he benefited from their support in his elevation to the IBT Presidency in 1983." The President's Commission added that "organized crime has continued to maintain a firm grip on the IBT long after Hoffa's reign." The President's Commission concluded that:

> At both the international and local levels, the IBT obviously continues to suffer from the relationship with organized crime. Indeed, so pervasive has this relationship become that no single remedy is likely to restore even a measure of true union democracy and independent leadership to the IBT. Sustained commitment of governmental resources to dislodge organized crime from the IBT through a combination of criminal prosecutions, civil actions, and administrative proceedings is the only approach that offers even a modest hope of success in the long run. . . . [S]ystematic use of trusteeships by the courts may be necessary to prevent organized crime from continuing to do business as usual in the IBT.

As one member of the President's Commission bluntly put it, the IBT is "dominated by the La Cosa Nostra crime syndicate and its auxilliaries and allies" and "controlled by gangsters whose power relies upon secrecy enforced by terror and murder." That Commission member described Teamsters corruption as a "screaming national scandal" and concluded that "the time and testimonial record would seem ripe for the Justice Department to initiate a civil RICO action to place the entire International Brotherhood of Teamsters under a court-appointed trustee."

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These findings of the President's Commission are set forth in the Government's memorandum also filed today in support of its motion for preliminary relief.

The Allegations In This Civil RICO Action

The complaint filed by the Government today alleges that organized crime figures, aided and abetted by the IBT's General Executive Board members, have extorted "the right of labor organization members to free speech and democratic participation in internal union affairs as guaranteed" by federal law. The complaint further alleges that all 18 board members have committed mail fraud; that seven board members have committed acts of racketeering that include embezzlement, receipt of illegal labor and benefit fund payoffs, and bribery; and that 12 board members have aided and abetted wire fraud in connection with La Cosa Nostra's scheme to insure the elections of the last two Teamsters presidents (Roy Williams and defendant Jackie Presser).

The defendants named in the complaint are: the International Brotherhood of Teamsters; the Commission of La Cosa Nostra, described in the complaint as the national ruling council for various organized crime families throughout the country; 26 persons described in the complaint as organized crime members or associates, including six bosses of crime families; the 18 members of the Teamsters General Executive Board, the union's ruling body; and one former board member. In addition to Presser, the Teamsters General Executive Board consists of Weldon Mathis, the

IBT's Secretary-Treasurer and Acting President during Presser's leave of absence for health reasons, and the 16 Teamsters' Vice Presidents.

According to the complaint, La Cosa Nostra figures have extorted union members' rights through a campaign of corruption and violence. The complaint alleges that the current IBT General Executive Board members have failed to remedy corruption within the Teamsters and have allowed many criminals to hold union office. The complaint charges that the board members, through various acts and failures to act, have permitted members and associates of La Cosa Nostra to maintain control over the International Union and certain of its locals and other bodies.

The Government's memorandum explains: "La Cosa Nostra figures have insured the elections of the IBT's top officers, including the union's last two Presidents. In return, union officers have allowed La Cosa Nostra ready access to union funds and jobs and free reign over certain IBT Locals, which La Cosa Nostra figures have used as instrumentalities to extort monies from employers. Thus, the IBT's leaders get their union offices, and La Cosa Nostra figures get their money -- all to the detriment of union members, victimized businesses and the general public."

1. Extortion Of Businesses Through The IBT

The complaint in this action cites several recent cases in which the Government has obtained convictions against IBT officials and La Cosa Nostra members and associates for their involvement in labor extortion schemes. According to the Government's court papers, these criminal cases show how La Cosa Nostra Families, operating through IBT Locals, use these unions to threaten businesses and to extort money. The proof in those cases has revealed labor racketeering in the air freight, construction, moving and storage industries, the Government's court papers charge.

For example, in two recent criminal RICO trials in the Southern District of New York,[1] the Government proved that the Commission of La Cosa Nostra and the Genovese Organized Crime Family punished recalcitrant concrete contractors by threatening that IBT Local 282 and other unions would disrupt ongoing work unless those businesses met the extortionate demands of La Cosa Nostra. Similarly, in a recent criminal case in the Eastern District of New York,[2] a jury found that defendant Philip Rastelli, as Boss of the Bonnano Organized Crime Family, controlled "the officials and affairs of Teamsters Local 814." Defendant Rastelli and others (including all of IBT Local 814's top officers) were found guilty of having threatened a number of moving and storage companies with labor disruption through IBT Local 814 in order to operate a bid-rigging and market division scheme. Likewise, in another recent criminal case in the Eastern

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[1] See United States v. Salerno, 85 Cr. 139 (RO), and United States v. Salerno, 86 Cr. 245 (MJL).

[2] See United States v. Rastelli, 85 Cr. 00354.

District of New York,[3] defendant Frank Manzo, alleged to be a prominent Lucchese Organized Crime Family member, and others (including a local Teamsters official) were convicted of criminal RICO charges stemming from a labor peace scheme operated at John F. Kennedy International Airport through IBT Locals 295 and 851. These cases are described in the Government's court papers filed today.

2. Benefit Fund Abuse

The complaint also alleges that La Cosa Nostra figures have used their control over the IBT to secure loans for the purchase and construction of Las Vegas casinos. As the Government's papers describe, successful criminal prosecutions of cash skimming operations at the casinos have exposed these improper loans and La Cosa Nostra's easy access to Teamsters benefit funds.

For example, in a recent federal case in Missouri, described in the Government's papers,[4] defendants Joseph John Aiuppa, John Phillip Cerone, Joseph Lombardo, Frank Balistrieri, Carl DeLuna, Carl Civella, Milton Rockman and other alleged La Cosa Nostra figures were convicted of criminal offenses in connection with the unlawful skimming of more than $2 million from Las Vegas casinos, including the Stardust and Fremont

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[3] See United States v. Santoro, 85 Cr. 100.

[4] See United States v. DeLuna, 83 Cr. 124 (W.D. Mo.), aff'd sub nom. United States v. Cerone, 830 F.2d 938 (8th Cir. 1987), cert. denied, 56 U.S.L.W. 3789 (U.S. May 17, 1988).

Hotels. The purchase and construction of these casinos were funded by a $62.5-million loan from the Teamsters Central States Pension Fund. According to the Government's court papers, the skimming operation represented the combined efforts of the Milwaukee, Chicago, Cleveland and Kansas City Crime Families, which shared the skim money and made payoffs to Teamsters officials to secure these loans.

Similarly, in a recent federal case in Illinois, described in the Government's papers,[5] the defendants, including then IBT President Roy Williams and alleged Chicago La Cosa Nostra figure Joseph Lombardo, offered a parcel of real estate owned by the Central States Pension Fund as a bribe to then U.S. Senator Howard Cannon to influence the Senator's actions on a proposed trucking deregulation bill. Judge Prentice H. Marshall, the sentencing judge in that case, described the criminal activities of former IBT President Roy Williams as "part of a larger, ongoing pattern in which union officials corrupted the operations of the Pension Fund. . . . In short, Williams and his predecessors and associates have treated the Fund as their own preserve."

3. IBT Members Victimized by Racketeering Activity

The complaint alleges that IBT members have been victimized by racketeering activity. The Government's court papers cite numerous cases in which La Cosa Nostra's open and notorious domination of Teamsters operations (such as IBT Local 560 in New Jersey, which is now in court-ordered trusteeship) has forced union members to live in fear and to forego the rights guaranteed them under the Labor-Management Reporting and Disclosure Act and other federal labor laws. As the Government's court papers explain, union members have the right to participate in the affairs of their union in an open and democratic way; however, particularly at La Cosa Nostra-dominated Locals, extortionate means have been used to deprive union members of their rights under federal law.

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[5] See United States v. Dorfman, 81 Cr. 269 (N.D. Ill.), aff'd sub nom. United States v. Williams, 737 F.2d 594 (7th Cir. 1984), cert. denied, 470 U.S. 1003 (1985).

(a) Violence And Intimidation

The complaint alleges that La Cosa Nostra maintains control over the union membership and curbs protest through a campaign of intimidation and violence. The complaint cites more than a dozen murders of Teamsters dissidents or persons prepared to testify about Teamsters corruption, several other murders, numerous shootings, bombings, and beatings, and the disappearance of a former IBT President as part of this pattern.

For example, in a recent federal case in New Jersey,[6] described in the Government's court papers, the court granted the Government's request to put IBT Local 560 into trusteeship because that Local had been captured and controlled by organized crime figures. As the Government's papers describe, the defendants in that civil RICO action included defendant Anthony Provenzano, a former IBT Vice President and alleged to be a Genovese Family Capo, defendant Nunzio Provenzano also a former Teamsters official and alleged to be a member of that same crime family, and defendant Salvatore Provenzano, then both President of Local 560 and an IBT Vice President. According to the Government's papers, the evidence showed that the Provenzanos and their cohorts conducted a campaign of violence, murder and threats of physical and economic injury against Local 560 members in order to bludgeon them into submission and to extinguish all challenges to the Provenzanos.

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[6] See United States v. Local 560, 581 F. Supp. 279 (D.N.J. 1984), aff'd, 780 F.2d 267 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986).

Among the examples of violence described in the Government's papers is the following incident. In April 1961, defendant Anthony Provenzano recruited two men to kill Anthony Castellitto, a Local 560 member who opposed Provenzano's union leadership. On June 6, 1961, Castellitto was murdered. Anthony Provenzano was later sentenced to life imprisonment for his part in the murder of Castellitto.[7] In discussing the Castellitto murder, U.S. District Judge Harold Ackerman wrote in 1984:

> [T]he disappearance [of Castellitto] generated a perception among the membership that anyone who represented an actual or potential threat to the Provenzano Group's dominance and control over Local 560 ran the risk of physical injury. The nature and intensity of that

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[7] See People of New York v. Provenzano, 79 A.D.2d 811, 435 N.Y.S.2d 369 (3d Dep't 1980).

> perception has been such that it survives to the present day.

The United States Court of Appeals for the Third Circuit affirmed Judge Ackerman's finding that, through such violence and intimidation, the Provenzanos had extorted "the membership's rights to democratic participation in Local 560."

In other cases described in the Government's papers, the Government proved that La Cosa Nostra figures, working in consort with IBT officials, have obtained payoffs from employers in exchange for lower labor costs at the expense of union members. For example, in the Rastelli case,[8] the Government convicted New York City La Cosa Nostra figures and union officers under their control of collecting payoffs from moving companies "in return for discontinuing Teamsters Local 814 organizing activities at those firms." Similarly, in two federal cases in Delaware,[9] defendant Eugene Boffa, an alleged associate of the Bufalino Organized Crime Family, and defendant Frank Sheeran, then President of IBT Local 326 in Wilmington, Delaware, were convicted of inducing trucking companies to fire Teamsters members and hire workers from Boffa's labor-leasing service. The Government's court papers allege that in those cases La Cosa

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[8] See United States v. Rastelli, 85 Cr. 00354 (E.D.N.Y.).

[9] See United States v. Boffa, et al., 80 Cr. 36 (D. Del.), aff'd in pertinent part, 688 F.2d 919 (3d Cir. 1982), cert. denied, 460 U.S. 1022 (1983), and United States v. Sheeran, 80 Cr. 36 (D. Del.), aff'd in pertinent part, 699 F.2d 112 (3d Cir.), cert. denied, 461 U.S. 931 (1983).

Nostra members and associates deprived the IBT membership of union jobs and benefits by paying off corrupt local union officials.

IBT officials themselves have approved the direct use of violence to maintain their power, the Government charges in its court papers. For example, the complaint cites the following incident. In October 1983, an organized dissident group known as Teamsters for a Democratic Union ("TDU") met in Michigan to air its grievances against the union's current leadership. The TDU meeting was overrun by another Teamsters group, the Brotherhood of Loyal Americans and Strong Teamsters ("BLAST"), which supported the incumbent IBT leadership. BLAST members violently disrupted the TDU meeting and had to be forcibly restrained by law enforcement authorities. National Labor Relations Board records show that the BLAST participants in the raid included approximately 20 officers of IBT local unions. After that violent encounter, current IBT President Jackie Presser praised the BLAST participants in comments to union officials in Cleveland, Ohio. Presser said:

> I know all about that BLAST program taking place in Michigan. I must have gotten a hundred calls. I know exactly what happened there. I was pleased to see that there are Teamsters who want to stop all of that crap. . . . The thing that affected me the most about last Sunday in Detroit, Michigan, was that there were a lot of guys there, I got the pictures of who was there. . . . [Y]ou know who was in the front line of a real wild fight with state highway patrolmen and police there? The Secretary/Treasurer of our Joint Council, Bill Evans, who's had two heart attacks . . . .

> Bill, I want to tell you, you're a hell of a guy to take it on yourself. I would have been there, but I'm not you. . . . I'm going to tell you something. We should be doing more of that. I'm going to tell you, I'm not going to let up on these people.

As further alleged in the complaint, shortly after Presser's comments, BLAST operatives disrupted another meeting of Teamsters dissident members and physically assaulted several of them.

The Government's court papers also describe how La Cosa Nostra's threats of violence and intimidation reach the Teamsters' highest levels. Former IBT President Roy Williams has admitted in sworn testimony[10] that "I was controlled by Nick" Civella, alleged to be the Kansas City Organized Crime Family Boss, "[a]nd when he threatened me, why, that's when I became his boy." Williams added that his fellow IBT General Executive Board members knew of his relationship with Civella "[b]ecause I made no bones about it."

(b) Bribery, Embezzlement, Receipt of Illegal Labor Payments And Fiduciary Abuses By The IBT Leadership

The Government's court papers note that some of the IBT's top leaders have also been directly involved in corrupt embezzlement and bribery schemes with La Cosa Nostra partners. In the Dorfman case,[11] then International Union President Roy

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[10] See United States v. Salerno, 86 Cr. 245 (MJL) (S.D.N.Y.).

[11] See United States v. Dorfman, 81 Cr. 269 (N.D. Ill.), aff'd sub nom. United States v. Williams, 737 F.2d 594 (7th Cir. 1984), cert. denied, 470 U.S. 1003 (1985).

Williams, defendant Joseph Lombardo (an alleged Chicago La Cosa Nostra figure), Allen Dorfman and others were convicted in 1983 of conspiring to bribe then U.S. Senator Howard Cannon in an attempt to stop proposed trucking deregulation legislation. The bribe, which consisted of an offer to Senator Cannon of the exclusive right to purchase realty owned by the Teamsters Central States Pension Fund for $1,400,000 (some $200,000 less than another potential buyer was offering), was made to influence Senator Cannon's actions regarding the proposed legislation. In exchange for this bribe, Senator Cannon, as chairman of the Senate Commerce Committee, was to contest the jurisdiction of another Senate committee over the bill in order to slow its progress.

The complaint alleges that defendant Donald Peters, who is currently an IBT Vice President, participated in the scheme to bribe Senator Cannon. In a May 21, 1979 recorded conversation introduced into evidence at the Dorfman trial, Peters and Dorfman discussed the scheme. Dorfman and Peters discussed the fact that while Senator Cannon had "take[n] care of deregulation," "we ain't fulfilled our commitment to him yet."

Other International Union officers have been convicted of crimes relating to abuses of their union offices, the Government explains in its court papers. For example, defendant Maurice Schurr was convicted in 1984 of taking illegal labor payments from a Teamsters employer,[12] yet he remains an IBT Vice President. Similarly, defendant Salvatore Provenzano was convicted of various criminal offenses and enjoined in 1984 from further union association for civil RICO violations in connection with his union activities at IBT Local 560 in Union City, New Jersey.[13] Provenzano kept his IBT Vice Presidency after he was convicted and relinquished it only when forced to do so by operation of a law which took effect in late 1984. In addition, the Government alleges in this civil action that several other current IBT officers have committed direct acts of racketeering, such as receipt of illegal benefit fund kickbacks and embezzlement of union funds.

The complaint further alleges that the current IBT leadership has committed various fiduciary breaches. For example, defendants Jackie Presser, Robert Holmes, Joseph Morgan and Donald Peters were among those recently required to pay $175,000 out of their personal assets to the Teamsters Central States Pension Fund in settlement of the Secretary of Labor's fiduciary abuse charges against them as Fund Trustees.[14] Moreover, from 1981 to 1983, the IBT General Executive Board allowed union funds to be used to pay for then IBT President Roy Williams's defense in his criminal case, even though it is clearly improper to expend union funds to pay for the personal defense of a union officer accused of wrongdoing "prior to a full determination on the merits."[15]

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[12] See United States v. Schurr, 84 Cr. 00043 (E.D. Pa.), aff'd, 775 F.2d 549 (3d Cir. 1985), aff'd on rehearing, 794 F.2d 903 (3d Cir. 1986).

[13] See United States v. Provenzano, 770 F.2d 1077 (3d Cir. 1985); United States v. Local 560, 780 F.2d 267 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986).

[14] See Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (consent decree entered on November 10, 1987).

(c) Unremedied Corruption Within the IBT

The Government's court papers explain that many current or former Teamsters International Union officers have already been convicted or indicted for crimes, yet they remain in office. Those papers note that 39 persons who are or have been International Union officials (and almost 50 percent of the persons who have served on the IBT General Executive Board) since 1970 have been convicted, indicted, or otherwise publicly cited for improper activity (e.g., fiduciary abuses, La Cosa Nostra associations) before or during their tenures in office. Ten of the 18 current IBT board members fall within that category, and three current IBT board members (Vice Presidents Maurice Schurr, Harold Friedman and Theodore Cozza) have felony conviction records, the complaint alleges. The Government's court papers further note that four of the last five IBT Presidents have faced federal felony charges, with three of them (David Beck, James Hoffa and Roy Williams) having resigned their union posts as a result of their convictions and the fourth (Jackie Presser) still retaining his office while awaiting trial.[16]

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[15] See Morrissey v. Segal, 526 F.2d 121, 127 (2d Cir. 1975).

Additionally, the Government's court papers allege that since approximately 1970 the Government has brought more than 200 criminal or civil actions for Teamsters-related offenses and obtained the convictions of more than 340 defendants, many of them Teamsters officials, for Teamsters-related crimes. Ten of the 18 current Executive Board members have been on the board when more than 300 of those convictions occurred, and 13 of the current Board members have been on the board when more than 200 convictions occurred, according to the Government's court papers.

In its memorandum, the Government states: "In response to the rampant corruption within the IBT, the Teamsters' General Executive Board members have literally done nothing, despite their affirmative obligation under federal law and the IBT's Constitution to rid the union of corruption."

A recent example of this failure to act occurred earlier this year. A federal jury in Manhattan last month convicted Anthony "Fat Tony" Salerno, as the Boss of the Genovese Organized Crime Family, and others of criminal RICO offenses involving illegal labor payments to union officials representing Teamsters Local 282 in New York City and Teamsters Local 560 in New Jersey.[17] According to the Government's court papers, the

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[16] See United States v. Presser, Cr. No. 86-114 (N.D. Ohio) (indicted with current IBT Vice President Harold Friedman).

[17] See United Stata v. Salerno, 86 Cr. 245 (MJL).

IBT leadership responded to this proof of corruption by recently appointing IBT Local 282 President Bobby Sasso to two higher union offices, despite the proof that Edward Halloran (one of the defendants in the Salerno case) paid Sasso an illegal labor payment, for which Halloran was convicted.

In its memorandum, the Government explains: "These officers have witnessed the government's many successful prosecutions of Teamsters officials and La Cosa Nostra figures for Teamsters-related crimes, yet they have refused to act or even to investigate. . . . The inescapable conclusion from this shocking course of conduct is that the entire IBT General Executive Board has permitted La Cosa Nostra to influence and corrupt the IBT."

4. Election Fraud

The complaint also alleges that La Cosa Nostra figures took steps to insure the elections of the last two IBT Presidents, Roy Williams and defendant Jackie Presser.[18] In support of those allegations, the Government today filed with the Court prior sworn testimony by Angelo Lonardo, who admits to having been the Underboss of the Cleveland Organized Crime Family. Lonardo testified that he colluded with La Cosa Nostra bosses in New York, Chicago and Kansas City to get Williams and Presser elected.

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[18] Last month, defendant Anthony Salerno (alleged to be the Boss of the Genovese Organized Crime Family) and two others were acquitted of wire fraud charges in connection with the elections of Williams and Presser as the last two IBT Presidents, although Salerno and others were convicted of making illegal labor payments to Teamsters officials. See United States v. Salerno, 86 Cr. 245 (MJL) (S.D.N.Y.). That criminal jury verdict has no collateral consequences in this civil action, where there is a lesser burden of proof (i.e., "preponderence of the evidence," rather than "beyond a reasonable doubt").

According to the Government's court papers, Lonardo's sworn testimony is corroborated by recorded conversations in which alleged Kansas City Organized Crime Family Boss Nicholas Civella and Genovese Organized Crime Family Boss Anthony "Fat Tony" Salerno confirm their support of Williams and Presser, respectively. Moreover, former IBT President Roy Williams has given sworn testimony that he was controlled by and beholden to La Cosa Nostra figures. As noted in the Government's court papers, the President's Commission on Organized Crime asked Williams directly about La Cosa Nostra's control over the IBT Presidents:

> Q: . . . But would you, in turn, agree that the International Brotherhood of Teamsters is racketeer influenced?
>
> A: Yes, I would.
>
> Q: And that important decisions in the Teamsters cannot be made without regard to the control of organized crime with major locals in the IBT?
>
> A: Well, they get their authority from some place; yes. And it would have to be from them, I would say.
>
> Q: So that any Teamsters president, sitting where you sat for several years, has to take into account that portions of his union are under the control of organized crime and not under his control?
>
> A: Yes.
>
> Q: Do you think it's possible that someone sitting in that chair could significantly change and disrupt the activities of organized crime?
>
> A: Not without having a bigger organization than they got. They was here a long time before any of us

ever got here, and they have got pretty powerful. And you fellows haven't been able to do nothing with them either.

Q: And they remain extremely powerful today?

A: Yes, they do.

While the technical procedure by which the Teamsters elect their Presidents has been adjudged lawful under the Landrum-Griffin Act, the Government alleges in this civil RICO case that La Cosa Nostra members and associates have taken control of and perverted that election process to insure the election of candidates under their influence. The Government therefore asks the court to use RICO's broad civil remedies to insure that the Teamsters have free and fair elections.

Relief Sought In This Action

In addition to filing the complaint today, the Government also filed a motion for preliminary relief. As preliminary relief, the Government seeks: (i) preliminary injunctions barring La Cosa Nostra members and associates from participating in Teamsters affairs; (ii) the appointment of a court liaison officer for the IBT to exercise the disciplinary powers of the IBT's General President and/or General Executive Board ("GEB") and to review appointments and expenditures proposed by the IBT's General President and/or GEB members, all of whom will remain in office and run the union on a day-to-day basis during the action; and (iii) preliminary injunctions barring the members of the GEB from engaging in any racketeering acts, associating with La Cosa Nostra members and associates or interfering with the work of the court liaison officer.

As permanent relief, to eliminate racketeering within the Teamsters, the Government seeks: (i) permanent injunctions barring La Cosa Nostra members and associates from participating in union affairs; (ii) permanent injunctions removing from the union current IBT officers found to be RICO violators; and (iii) appointment of a trustee for the IBT to run new IBT officer elections and to discharge, as the trustee deems necessary, certain duties of the GEB in order to bar racketeering activity within the Teamsters until such time as free and fair elections can be held.

Similar relief has been granted in recent civil RICO cases brought by the Government. Courts have ordered two Teamsters Locals (Local 560 in New Jersey and Local 814 in New York) put into trusteeship because of organized crime corruption.[19] Last month a federal judge in Philadelphia appointed a court liaison officer to oversee the operations of a local roofers union there.[20] In the Southern District of New York, courts have appointed a receiver for a restaurant, a

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[19] *See United States* v. *Local 560, International Brotherhood of Teamsters*, 780 F.2d 267 (3d Cir. 1985), *cert. denied*, 476 U.S. 1140 (1986); *United States* v. *The Bonanno Organised Crime Family of La Cosa Nostra*, 87 Civ. 2974 (ILG) (E.D.N.Y.) (consent judgment).

[20] *See United States* v. *Local 30, United Slate, Tile and Composition Roofers*, 87 Civ. 7718 (LB) (E.D. Pa).

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trustee for the Cement and Concrete Workers Union, and an administrator for the Fulton Fish Market.[21]

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[21] See United States v. Ianniello, 824 F.2d 203 (2d Cir. 1987); United States v. Local 6A, Cement & Concrete Workers, 663 F.Supp. 192 (S.D.N.Y. 1986) (consent judgment); United States v. Local 359, United Seafood Workers, Smoked Fish & Cannery Union, 87 Civ. 7351 (TPG) (S.D.N.Y.) (consent judgment).

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Senate Permanent Subcommittee on Investigations

EXHIBIT # 11

U.S. DISTRICT COURT
FILED
MAR 14 1989
S.D. OF N.Y.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-v-

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, et al.,

Defendants.

ORDER

88 CIV. 4486 (DNE)

WHEREAS, plaintiff United States of America commenced this action on June 28, 1988, by filing a Complaint seeking equitable relief involving the International Brotherhood of Teamsters, AFL-CIO (hereinafter, "the IBT"), pursuant to the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1964; and

WHEREAS, the Summons and Complaint have been served, answers filed, and pretrial discovery commenced by and between the parties; and

WHEREAS, plaintiff United States of America and defendants IBT and its General Executive Board, William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis (hereinafter, the "union defendants") have consented to entry of this order; and

WHEREAS, the union defendants acknowledge that there have been allegations, sworn testimony and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT; and

WHEREAS, the union defendants agree that there should be no criminal element or La Cosa Nostra corruption of any part of the IBT; and

WHEREAS, the union defendants agree that it is imperative that the IBT, as the largest trade union in the free world, be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence;

IT IS HEREBY ORDERED AND DECREED That:

A. COURT JURISDICTION

1. This Court has jurisdiction over the subject matter of the action, has personal jurisdiction over the parties, and shall retain jurisdiction over this case until further order of the Court.

2. Upon satisfactory completion and implementation of the terms and conditions of this order, this Court shall entertain a joint motion of the parties hereto for entry of judgment dismissing this action with prejudice and without costs to either party.

B. DURATION

3. The authority of the court officers established in paragraph no. 12 herein shall terminate after the certification of the 1991 election results by the Election Officer for all IBT International Officers as provided in this Order, except as follows:

(1) The Election Officer and the Administrator shall have the authority to resolve all disputes concerning the conduct and/or results of the elections conducted in 1991 under the authority granted to them under paragraph 12(D) herein, and the Investigations Officer and the Administrator shall have the authority to investigate and discipline any corruption associated with the conduct and/or results of the elections to be conducted in 1991 under the authority granted them under paragraph 12(A) and (C) herein, so long as said investigation is begun within six months of the final balloting.

(2) The Investigations Officer and the Administrator shall have the authority to resolve to completion and decide all charges filed by the Investigations Officer on or before the date on which the authority granted to them under paragraphs 12(A) and (C) herein terminates the authority pursuant to subparagraph (3) below.

(3) The role and authority provided for in paragraphs 12 and 13 of this Order regarding the Investigations Officer and the Administrator and their relationship with the Independent Review Board shall terminate not later than nine (9) months after the certification of the 1991 election results.

(4) As used herein, the date referred to as "the certification of the 1991 election results" shall be construed to mean either the date upon which the Election Officer certifies the 1991 election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

C. STATUS OF THE INDIVIDUAL UNION DEFENDANTS

4. The union defendants herein remain as officers of the IBT, subject to all of the terms herein, including the disciplinary authority of the Court-appointed officers, described in paragraph 12(A) herein.

D. CHANGES IN THE IBT CONSTITUTION

5. The portion of Section 6(a) of Article XIX of the IBT Constitution that provides, "Any charge based upon alleged conduct which occurred more than one (1) year prior to the filing of such charge is barred and shall be rejected by the Secretary-Treasurer, except charges based upon the non-payment of dues, assessment and other financial obligations," shall be and hereby is amended to provide for a five (5) year period, running from the discovery of the conduct giving rise to the charge. This limitation period shall not apply to any actions taken by the Investigations Officer or the Administrator.

6. Section 6(a) of Article XIX of the IBT Constitution shall be deemed and is hereby amended to include the following: "Nothing herein shall preclude the General President and/or General Executive Board from suspending a member or officer facing criminal or civil trial while the charges are pending."

7. Immediately after the conclusion of the IBT elections to be conducted in 1991, Section 8 of Article VI of the IBT Constitution shall be deemed and hereby is amended to provide that a special election be held whenever a vacancy occurs in the office of IBT General President, pursuant to the procedures described later herein for election of IBT General President.

8. Article IV, Section 2 of the IBT Constitution shall be deemed and is hereby amended to include a new paragraph as follows:

> "No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity. Nothing herein shall be interpreted to prohibit receipt of contributions from fellow employees and members of this International Union. Violation of this provision shall be grounds for removal from office."

9. (a) The IBT Constitution shall be deemed and hereby is amended to incorporate and conform with all of the terms set forth in this order.

(b) By no later than the conclusion of the IBT convention to be held in 1991, the IBT shall have formally amended the IBT Constitution to incorporate and conform with all of the terms set forth in this order by presenting said terms to the delegates for a vote. If the IBT has not formally so amended the IBT Constitution by that date, the Government retains the right to seek any appropriate action, including enforcement of this order, contempt or reopening this litigation.

E. PERMANENT INJUNCTION

10. Defendants William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis, as well as any other or future IBT General Executive Board members, officers, representatives, members and employees of the IBT, are hereby permanently enjoined from committing any acts of racketeering activity, as defined in 18 U.S.C. § 1961 et seq., and from knowingly associating with any member or associate of the Colombo Organized Crime Family of La Cosa Nostra, the Genovese Organized Crime Family of La Cosa Nostra, the Gambino Organized Crime Family of La Cosa Nostra, the Lucchese Organized Crime Family of La Cosa Nostra, the Bonnano Organized Crime Family of La Cosa Nostra, any other Organized Crime Families of La Cosa Nostra or any other criminal group, or any person otherwise enjoined from participating in union affairs, and from obstructing or otherwise interfering with the work of the court-appointed officers or the Independent Review Board described herein.

11. As used herein, the term, "knowingly associating," shall have the same meaning as that ascribed to that term in the context of comparable federal proceedings or federal rules and regulations.

F. COURT-APPOINTED OFFICERS

12. The Court shall appoint three (3) officers -- an Independent Administrator, an Investigations Officer and an Election Officer -- to be identified and proposed by the Government and the union defendants, to oversee certain operations of the IBT as described herein. The parties shall jointly propose to the Court at least two persons for each of these three positions. Such proposal shall be presented to the Court within four weeks of the date of the entry of this Order, except that for good cause shown such period may be extended by the Court. Except as otherwise provided herein, the duties of those three officers shall be the following:

(A) DISCIPLINARY AUTHORITY -- From the date of the Administrator's appointment until the termination of the Administrator's authority as set forth in paragraph 3(3) herein, the Administrator shall have the same rights and powers as the IBT's General President and/or General Executive Board under the IBT's Constitution (including Articles VI and XIX thereof) and Title 29 of the United States Code to discharge those duties which relate to: disciplining corrupt or dishonest officers, agents, employees or members of the IBT or any of its affiliated entities (such as IBT Locals, Joint Councils and Area Conferences), and appointing temporary trustees to run the affairs of any such affiliated entities. The Investigations Officer shall have the authority to investigate the operation of the IBT or any of its affiliates and, with cause,

(i) To initiate disciplinary charges against any officer, member or employee of the IBT or any of its affiliates in the manner specified for members under the IBT Constitution and,

(ii) To institute trusteeship proceedings for the purpose and in the manner specified in the IBT Constitution.

Prior to instituting any trusteeship proceeding the Investigations Officer shall notify the General President of the Investigations Officer's plan to institute said trusteeship proceeding and the basis therefor and give the General President ten (10) days to exercise his authority pursuant to the IBT Constitution to institute such trusteeship proceedings. If the General President timely institutes such proceedings and/or a trusteeship is imposed, the Investigations Officer and the Administrator shall have authority to review any action thus taken by the General President and/or any trusteeship imposed thereafter and to modify any aspect of either of the above at any time and in any manner consistent with applicable federal law. If the General President fails to institute trusteeship proceedings within the ten-day period prescribed herein, the Investigations Officer may immediately proceed in accordance with the authority specified above.

When the Investigations Officer files charges, the following procedures shall be observed:

(a) the Investigations Officer shall serve written specific charges upon the person charged;

(b) the person charged shall have at least thirty (30) days prior to hearing to prepare his or her defense;

(c) a fair and impartial hearing shall be conducted before the Administrator;

(d) the person charged may be represented by an IBT member at the hearing; and

(e) the hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

The Administrator shall preside at hearings in such cases and decide such cases using a "just cause" standard. The Investigations Officer shall present evidence at such hearings. As to decisions of the IBT General Executive Board on disciplinary charges and trusteeship proceedings during the Administrator's tenure, the Administrator shall review all such decisions, with the right to affirm, modify or reverse such decisions and, with respect to trusteeship proceedings, to exercise the authority granted above in this paragraph. Any decision of the Administrator shall be final and binding, subject to the Court's review as provided herein. For a period of up to fourteen (14) days after the Administrator's decision, any person charged or entity placed in trusteeship adversely affected by the decision shall have the right to seek review by this Court of the Administrator's decision. The Administrator shall also have the right to establish and disseminate new guidelines for investigation and discipline of corruption within the IBT. All of the above actions of the Administrator and Investigations Officer shall be in compliance with applicable Federal laws and regulations.

(B) REVIEW AUTHORITY -- From the date of the Administrator's appointment until the certification of the IBT elections to be conducted in 1991, the Administrator shall have the authority to veto whenever the Administrator reasonably believes that any of the actions or proposed actions listed below constitutes or furthers an act of racketeering activity within the definition of Title 18 U.S.C. §1961, or furthers or contributes to the association directly, or indirectly, of the IBT or any of its members with the LCN or elements thereof:

(i) any expenditures or proposed expenditure of International Union funds or transfer of International Union property approved by any officers, agents, representatives or employees of the IBT,

(ii) any contract or proposed contract on behalf of the International Union, other than collective bargaining agreements, and

(iii) any appointment or proposed appointments to International Union office of any officer, agent, representative or employee of the IBT.

In any case where the Administrator exercises veto authority, the action or proposed action shall not go forward. The Administrator, upon request of the IBT's General President or General Executive Board, shall, within three (3) days, advise the IBT's General President and/or General Executive Board whichever is applicable, of the reasons for any such veto. For a period of up to fourteen (14) days after the Administrator's decision, the IBT's President and/or General Executive Board shall have the right to seek review by this Court of the Administrator's decision. The Administrator may prescribe any reasonable mechanism or procedure to provide for the Administrator's review of actions or proposed actions by the IBT, and every officer, agent, representative or employee of the IBT shall comply with such mechanism or procedure.

(C) ACCESS TO INFORMATION -- (i) The Investigations Officer shall have the authority to take such reasonable steps that are lawful and necessary in order to be fully informed about the activities of the IBT in accordance with the procedures as herein established. The Investigations Officer shall have the right:

(a) To examine books and records of the IBT and its affiliates, provided the entity to be examined receives three (3) business days advance notice in writing, and said entity has the right to have its representatives present during said examination.

(b) To attend meetings or portions of meetings of the General Executive Board relating in any way to any of the officer's rights or duties as set forth in this Order, provided that prior to any such meeting, the officer shall receive an agenda for the meeting and then give notice to the General President of the officer's anticipated attendance.

(c) To take and require sworn statements or sworn in-person examinations of any officer, member, or employee of the IBT provided the Investigations Officer has reasonable cause to take such a statement and provided further that the person to be examined receives at least ten (10) days advance notice in writing and also has the right to be represented by an IBT member or legal counsel of his or her own choosing, during the course of said examination.

(d) To take, upon notice and application for cause made to this Court, which shall include affidavits in support thereto, and the opportunity for rebuttal affidavits, the sworn statements or sworn in person examination of persons who are agents of the IBT (and not covered in subparagraph (c) above).

(e) To retain an independent auditor to perform audits upon the books and records of the IBT or any of its affiliated entities (not including benefit funds subject to ERISA), provided said entity receives three (3) business days advance notice in writing and said entity has the right to have its representatives present during the conduct of said audit.

(ii) The Independent Administrator and the Election Officer shall have the same rights as the Investigations Officer as provided in sections (a), (b), (c) and (d) of A, herein.

(iii) The Independent Administrator, Investigations Officer and Election Officer shall each be provided with suitable office space at the IBT headquarters in Washington, D.C.

D. IBT ELECTION -- The IBT Constitution shall be deemed amended, and is hereby amended, to provide for the following new election procedures:

(i) The procedures described herein shall apply to elections of the IBT's General President, General Secretary-Treasurer, International Union Vice Presidents, and International Union Trustees;

(ii) Delegates to the IBT International convention at which any International Union officers are nominated or elected shall be chosen by direct rank-and-file secret balloting shortly before the convention (but not more than six months before the convention. except for those delegates elected at local union elections scheduled to be held in the fall of 1990), and with all convention Candidate election voting by secret ballot of each delegate individually;

(iii) Delegates shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference. In addition, there shall be nominated candidates for five (5) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

(iv) At such an International convention, after the nomination of International Union Vice Presidents and election of Trustees, all delegates shall then vote for nominees for the offices of IBT General President and Secretary-Treasurer;

(v) To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, and Vice President, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

(vi) No person on the ballot for the position of IBT General President may appear on the ballot in the same election year for the position of Secretary-Treasurer; and further no member shall be a candidate for more than one (1) Vice President position;

(vii) No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer and Vice Presidents shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member one-vote elections for each regional position;

(viii) All direct rank-and-file voting by secret ballot described above shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary, in accordance with Department of Labor regulations; and

(ix) The current procedures under the IBT Constitution for filling a vacancy between elections in the office of General Secretary-Treasurer, International Trustee, and International Vice President shall remain in effect.

The Election Officer shall supervise the IBT election described above to be conducted in 1991 and any special IBT elections that occur prior to the IBT elections to be conducted in 1991. In advance of each election, the Election Officer shall have the right to distribute materials about the election to the IBT membership. The Election Officer shall supervise the balloting process and certify the election results for each of these elections as promptly as possible after the balloting. Any disputes about the conduct and/or results of elections shall be resolved after hearing by the Administrator.

The union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT elections. The union defendants further consent to the U.S. Department of Labor supervising any IBT elections or special elections to be conducted after 1991 for the office of the IBT General President, IBT General Secretary-Treasurer, IBT Vice President, and IBT Trustee.

At the IBT 1991 International Convention, the delegates shall be presented with these aforesaid amendments for vote; provided further that nothing herein shall be deemed or interpreted or applied to abridge the Landrum-Griffin free speech right of any IBT officer, delegate or member, including the parties hereto.

(E) REPORTS TO MEMBERSHIP -- The Administrator shall have the authority to distribute materials at reasonable times to the membership of the IBT about the Administrator's activities. The reasonable cost of distribution of these materials shall be borne by the IBT. Moreover, the Administrator shall have the authority to publish a report in each issue of the International Teamster concerning the activities of the Administrator, Investigations Officer and Election Officer.

(F) REPORTS TO THE COURT -- The Administrator shall report to the Court whenever the Administrator sees fit but, in any event, shall file with the Court a written report every three (3) months about the activities of the Administrator, Investigations Officer and Election Officer. A copy of all reports to the Court by the Administrator shall be served on plaintiff United States of America, the IBT's General President and duly designated IBT counsel.

(G) HIRING AUTHORITY -- The Administrator, the Investigations Officer and the Election Officer shall have the authority to employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of their duties. Moreover, they shall have the authority to designate persons of their choosing to act on their behalf in performing any of their duties, as outlined in subparagraphs above. Whenever any of them wish to designate a person to act on their behalf, they shall give prior written notice of the designation to plaintiff United States of America, and the IBT's General President; and those parties shall then have the right, within fourteen (14) days of receipt of notice, to seek review by this Court of the designation, which shall otherwise take effect fourteen (14) days after receipt of notice.

(H) COMPENSATION AND EXPENSES -- The compensation and expenses of the Administrator, the Investigations Officer and the Election Officer (and any designee or persons hired by them) shall be paid by the IBT. Moreover, all costs associated with the activities of these three officials (and any designee or persons hired by them) shall be paid by the IBT. The Administrator, Investigations Officer and Election Officer shall file with the Court (and serve on plaintiff United States of America and the IBT's General President and designated IBT counsel) an application, including an itemized bill, with supporting material, for their services and expenses once every three months. The IBT's General President shall then have fourteen (14) business days following receipt of the above in which to contest the bill before this Court. If the IBT's President fails to contest such a bill within that 14-day period, the IBT shall be obligated to pay the bill. In all disputes concerning the reasonableness of the level or amount of compensation or expense to be paid, the Court and parties shall be guided by the level of payment as authorized and approved by the IBT for the payment of similar services and expenses.

(I) APPLICATION TO THE COURT -- The Administrator may make any application to the Court that the Administrator deems warranted. Upon making any application to the Court, the Administrator shall give prior notice to plaintiff United States of America, the IBT's General President and designated IBT counsel and shall serve any submissions filed with the Court on plaintiff United States of America, the IBT's General President and designated IBT counsel. Nothing herein shall be construed as authorizing the parties or the Court-appointed officers to modify, change or amend the terms of this Order.

G. INDEPENDENT REVIEW BOARD

Following the certification of the 1991 election results, there shall be established an Independent Review Board, (hereinafter, referred to as the "Review Board"). Said Board shall consist of three members, one chosen by the Attorney General of the United States, one chosen by the IBT and a third person chosen by the Attorney General's designee and the IBT's designee. In the event of a vacancy, the replacement shall be selected in the same manner as the person who is being replaced was selected.

(a) The Independent Review Board shall be authorized to hire a sufficient staff of investigators and attorneys to investigate adequately (1) any allegations of corruption, including bribery, embezzlement, extortion, loan sharking, violation of 29 U.S.C. §530 of the Landrum Griffin Act, Taft-Hartley Criminal violations or Hobbs Act violations, or (2) any allegations of domination or control or influence of any IBT affiliate, member or representative by La Cosa Nostra or any other organized crime entity or group, or (3) any failure to cooperate fully with the Independent Review Board in any investigation of the foregoing.

(b) The Independent Review Board shall exercise such investigative authority as the General President and General Secretary-Treasurer are presently authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law.

(c) All officers, members, employees and representatives of the IBT and its affiliated bodies shall cooperate fully with the Independent Review Board in the course of any investigation or proceeding undertaken by it. Unreasonable failure to cooperate with the Independent Review Board shall be deemed to be conduct which brings reproach upon the IBT and which is thereby within the Independent Review Board's investigatory and decisional authority.

(d) Upon completion of an investigation, the Independent Review Board shall issue a written report detailing its findings, charges, and recommendations concerning the discipline of union officers, members, employees, and representatives and concerning the placing in trusteeship of any IBT subordinate body. Such written reports shall be available during business hours for public inspection at the IBT office in Washington, D.C.

(e) Any findings, charges, or recommendations of the Independent Review Board regarding discipline or trusteeship matters shall be submitted in writing to an appropriate IBT entity (including designating a matter as an original jurisdiction case for General Executive Board review), with a copy sent to the General President and General Executive Board. The IBT entity to which a matter is referred shall thereupon promptly take whatever action is appropriate under the circumstances, as provided by the IBT Constitution and applicable law. Within 90 days of the referral, that IBT entity must make written findings setting forth the specific action taken and the reasons for that action.

(f) The Independent Review Board shall monitor all matters which it has referred for action if, in its sole judgment, a matter has not been pursued and decided by the IBT entity to which the matter has been referred in a lawful, responsible, or timely manner, or that the resolution proposed by the relevant IBT entity is inadequate under the circumstances, the Independent Review Board shall notify the IBT affiliate involved of its view, and the reasons therefor. A copy of said notice shall be sent by the Independent Review Board, to the General President and the General Executive Board.

(g) Within 10 days of the notice described in paragraph (f) above, the IBT entity involved shall set forth in writing any and all additional actions it has taken and/or will take to correct the defects set forth in said notice and a deadline by which said action may be completed. Immediately thereafter, the Independent Review Board shall issue a written determination concerning the adequacy of the additional action taken and/or proposed by the IBT entity involved. If the Independent Review Board concludes that the IBT entity involved has failed to take or propose satisfactory action to remedy the defects specified by the Independent Review Board's notice, the Independent Review Board shall promptly convene a hearing, after notice to all affected parties. All parties shall be permitted to present any facts, evidence, or testimony which is relevant to the issue before the Independent Review Board . Any such hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

(h) After a fair hearing has been conducted, the Independent Review Board shall issue a written decision which shall be sent to the General President, each member of the General Executive Board, and all affected parties.

(i) The decision of the Independent Review Board shall be final and binding, and the General Executive Board shall take all action which is necessary to implement said decision, consistent with the IBT Constitution and applicable Federal laws.

(j) The Independent Review Board shall have the right to examine and review the General Executive Board's implementation of the Independent Review Board's decisions; in the event the Independent Review Board is dissatisfied with the General Executive Board's implementation of any of its decisions, the Independent Review Board shall have the authority to take whatever steps are appropriate to insure proper implementation of any such decision.

(k) The Independent Review Board shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General Executive Board, and shall have the right to affirm, modify, or reverse any such decision. The Independent Review Board's affirmance, modification, or reversal of any such General Executive Board decision shall be in writing and final and binding.

(l) The IBT shall pay all costs and expenses of the Independent Review Board and its staff (including all salaries of Review Board members and staff). Invoices for all such costs and expense shall be directed to the General President for payment.

(m) The Investigations Officer and the Administrator shall continue to exercise the investigatory and disciplinary authority set forth in paragraph 12 above for the limited period set forth in paragraph 3(3) above, provided, however, that the Investigations Officer and the Administrator may, instead, refer any such investigation or disciplinary matter to the Independent Review Board.

(n) The IBT Constitution shall be deemed and hereby is amended to incorporate all of the terms relating to the Independent Review Board set forth above in this paragraph. This amendment shall be presented to the delegates to the 1991 Convention for vote.

H. INDEMNIFICATION

13. The IBT shall purchase a policy of insurance in an appropriate amount to protect the Administrator, the Investigations Officer, the Election Officer and persons acting on their behalf from personal liability for any of their actions on behalf of the IBT, the Administrator, the Investigations Officer or the Election Officer. If such insurance is not available, or if the IBT so elects, the IBT

shall indemnify the Administrator, Investigations Officer, Election Officer and persons acting on their behalf from any liability (or costs incurred to defend against the imposition of liability) for conduct taken pursuant to this order. That indemnification shall not apply to conduct not taken pursuant to this order. In addition, the Administrator, the Investigations Officer, the Election Officer and any persons designated or hired by them to act on their behalf shall enjoy whatever exemptions from personal liability may exist under the law for court officers.

I. IBT LEGAL COUNSEL

14. During the term of office of the court-appointed officers, the IBT General President shall have the right to employ or retain legal counsel to provide consultation and representation to the IBT with respect to this litigation, to negotiate with the appropriate official and to challenge the decisions of the court-appointed officers, and may use union funds to pay for such legal consultation and representation. The Administrator's removal powers and authority over union expenditures shall not apply to such legal consultation and representation.

J. NON-WAIVER

15. To the extent that such evidence would be otherwise admissible under the Federal Rules of Evidence, nothing herein shall be construed as a waiver by the United States of America or the United States Department of Labor of its right to offer proof of any allegation contained in the Complaint, Proposed Amended Complaint, declarations or memoranda filed in this action, in any subsequent proceeding which may lawfully be brought.

K. APPLICATION TO COURT

16. This Court shall retain jurisdiction to supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties. This Court shall have exclusive jurisdiction to decide any and all issues relating to the Administrator's actions or authority pursuant to this order. In reviewing actions of the Administrator, the Court shall apply the same standard of review applicable to review of final federal agency action under the Administrative Procedure Act.

L. FUTURE PRACTICES

17. The parties intend the provisions set forth herein to govern future IBT practices in those areas. "To the extent the IBT wishes to make any changes, constitutional or otherwise, in those provisions, the IBT shall give prior written notice to the plaintiff,

through the undersigned. If the plaintiff then objects to the proposed changes as inconsistent with the terms and objectives of this order, the change shall not occur; provided, however, that the IBT shall then have the right to seek a determination from this Court, or, after the entry of judgment dismissing this action, from this Court or any other federal court of competent jurisdiction as to whether the proposed change is consistent with the terms and objectives set forth herein.

M. SCOPE OF ORDER

18. Except as provided by the terms of this order, nothing else herein shall be construed or interpreted as affecting or modifying: (a) the IBT Constitution; (b) the Bylaws and Constitution of any IBT affiliates; (c) the conduct and operation of the affairs of the IBT or any IBT-affiliated entity or any employee benefit fund as defined in ERISA or trust fund as defined by Section 302(c) of the Labor Management Relations Act, as amended; (d) the receipt of any compensation or benefits lawfully due or vested to any officer, member or employee of the IBT or any of its affiliates and affiliated benefit fund; or (e) the term of office of any elected or appointed IBT officer or any of the officers of any IBT-affiliated entities.

N. NON-ADMISSION CLAUSE

19. Nothing herein shall be construed as an admission by any of the individual union defendants of any wrongdoing or breach of any legal or fiduciary duty or obligation in the discharge of their duties as IBT officers and members of the IBT General Executive Board.

O. FUTURE ACTIONS

20. Nothing herein shall preclude the United States of America or the United States Department of Labor from taking any appropriate action in regard to any of the union defendants in reliance on federal laws, including an action or motion to require disgorgement of pension, severance or any other retirement benefits of any individual union officer defendant on whom discipline is imposed pursuant to paragraph 12 above.

P. LIMITS OF ORDER

21. Nothing herein shall create or confer or is intended to create or confer, any enforceable right, claim or benefit on the part of any person or entity other than to the parties hereto and the court-appointed officers established herein. As to the undersigned defendants hereto, this order supercedes the order of the Court entered on June 28, 1988, as thereafter extended.

Q. EXECUTION

22. Each of the undersigned individual defendants has read this order and has had an opportunity to consult with counsel before signing the order.

March 14, 1989.

David N. Edelstein
DAVID N. EDELSTEIN
United States District Judge

CONSENTED TO:

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United States of America

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By: James T. Grady
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William J. McCarthy 3/13/89
Defendant WILLIAM J. McCARTHY

Defendant WELDON MATHIS

Joseph Trerotola

Defendant JOSEPH TREROTOLA

Joseph W Morgan

Defendant JOSEPH W. MORGAN

Defendant EDWARD M. LAWSON

Arnold Weinmeister

Defendant ARNOLD WEINMEISTER

Donald Peters

Defendant DONALD PETERS

Walter J Shea

Defendant WALTER J. SHEA

Harold Friedman

Defendant HAROLD FRIEDMAN

Jack D. Cox

Defendant JACK D. COX

Defendant DON L. WEST

Michael J. Riley

Defendant MICHAEL J. RILEY

T R Cozza

Defendant THEODORE COZZA

Daniel Ligurotis

Defendant DANIEL LIGUROTIS

U.S. DISTRICT COURT
FILED
MAR 21 1989
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- x

UNITED STATES OF AMERICA, :

Plaintiff, :

- v. - :

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, *et al.*, :

Defendants. :

- x

88 Civ. 4486 (DNE)

ORDER

WHEREAS, on March 10, 1989, this Court signed a Consent Judgment involving the plaintiff United States of America, and Union Defendants Weldon Mathis, Edward Lawson and Donald West; and

WHEREAS, as part of the foregoing Consent Judgment the United States withdrew the above-captioned action against these defendants with prejudice; and

WHEREAS, the remaining Union defendants consented to the entry of an Order signed by this Court on March 14, 1989; and

WHEREAS, the March 14 Order inadvertently recited on page 1 that Messrs. Mathis, Lawson and West "consented to its terms;" and

WHEREAS, the March 14 Order names Mathis, Lawson and West as objects of an injunction contained in paragraph 10; and

WHEREAS, since Mathis, Lawson and West were not defendants in this case after March 10, 1989, it is apparent that they did not consent to the March 14 Order and, therefore, the foregoing references to them were inadvertent and in error;

IT IS HEREBY ORDERED AND DECREED That:

The names of defendants Mathis, Lawson and West should be and hereby are stricken from the third whereas clause on page 1 and from the injunction in paragraph 10 so as to correctly reflect the identities of those who in fact consented to the March 14, 1989 Order.

March 21, 1989.

United States District Judge

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

RMM:mm
cv-715/2

March 13, 1989

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038

United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

This is to confirm our mutual understanding that, when the Independent Review Board is constituted pursuant to the terms of the proposed settlement, a majority vote of the three-person Independent Review Board shall constitute a binding decision of that Board and the Attorney General and the IBT shall act promptly to select and/or replace their designees on the Board. Assuming the IBT confirms this understanding (as reflected by your signature below), the United States will accept the proposal endorsed yesterday by the IBT and the remaining individual union officer defendants.

Very truly yours,

BENITO ROMANO
United States Attorney

By: Randy M. Mastro
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:

Jed S. Rakoff
JED S. RAKOFF, ~~ESQ.~~

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

RMM:mm
cv-883/2

March 15, 1989

BY HAND

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038

United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

As I discussed with Mr. Grady yesterday, this is to confirm the parties' mutual understanding that: (1) nothing in the March 14 order precludes the Secretary of Labor's exercise of authority under the LMRDA or other federal laws; and (2) as to those 1991 IBT convention delegates to be elected at the time of local union elections in the fall of 1990, delegate candidates will be listed separately on the ballot from union officer candidates. Please sign below to confirm your agreement with the above.

Very truly yours,

BENITO ROMANO
United States Attorney

By: Randy M. Mastro
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:

Jed S. Rakoff
JED S. RAKOFF, ESQ.

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 12

TEAMSTERS
NEWS RELEASE

FOR IMMEDIATE RELEASE
MARCH 13, 1989

FOR MORE INFORMATION
DUKE ZELLER (202) 624-6911

Washington, D.C. -- Statement of the International Brotherhood of Teamsters' General President William J. McCarthy regarding Proposed Settlement of the Civil RICO Case against the International Brotherhood of Teamsters:

"As General President of this great union, I have consistently opposed any settlement, maintaining from the outset that the Government's entire case was groundless and politically motivated to embarrass the Teamsters.

"As the leader of this union, representing nearly two million men and women, I have felt all along I have a responsibility and duty to protect their rights and the reputation of the entire union.

"While I reluctantly accept the terms of the Consent Order, I believe it is not the vindication and exoneration Teamsters deserve. The fact is this suit should never have been filed in the first place."

# # #

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO
25 LOUISIANA AVENUE N.W. WASHINGTON, D.C. 20001 • (202) 624-6911

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 13

Questions and Answers on the Civil RICO Suit Settlement

March 16, 1989

Dear Brothers and Sisters:

Today is a new day for this great International Union. The threat of the RICO case and a Government "takeover" of our Union is now behind us. For a relatively short period of time, or until a few months after the 1991 Convention, there will be an Investigations Officer, an Independent Administrator, and an Elections Officer functioning under the terms of the Court Order recently filed in the Federal Court in New York City. The discharge of their duties should not interfere with you or with this Union in the conduct of our day-to-day business on behalf of our members.

Further, the amendments to the IBT Constitution will be presented to the delegates at the 1991 Convention for their vote of confirmation and approval.

Finally, the Review Board's authority is limited to claims of alleged corruption within this Union, a matter which should have little or no impact upon our hard working and dedicated officers and representatives.

While I continue to believe this case never should have been filed by the Government in the first instance, I reluctantly consented with the remaining members of the General Executive Board to the Court Order because I believe it to be in the best interests of you, the IBT leadership, and of our members.

For your convenience, I have asked our General Counsel, Jim Grady, to provide you with the following series of questions and answers in order to further explain the terms of the Court Order.

During the course of this meeting, time permitting, there will be an opportunity for further questions.

May I again express my appreciation to each of you for your continued loyalty and support. Together we can look to the future with pride and confidence.

Fraternally yours,

William J. McCarthy

International Teamster: Why did the IBT settle the civil RICO case?

Grady: There are several reasons. First, the settlement terms were satisfactory. We can live i them because, for the most part, they will not interfere with our day-to-day operations. Second, the legal costs of this litigation were rapidly rising into millions of dollars. Finally, in the unlikely event we lost this case, a trustee would take over this Union, something we believe would be a disaster for our membership.

International Teamster: What were the terms of the settlement?

Grady: To summarize a twenty-eight page legal document isn't easy, but I can say that the settlement falls into three broad categories. They are investigations, elections, and the esablishment of a reveiw board.

Investigations

nternational Teamster: Tell us about the inestigations.

Grady: Well, the Order provides that the IBT nd the Government jointly select an officer whose function it is to look for corruption nywhere he can find it within the IBT.

nternational Teamster: How will he go about oing that?

Grady: The Order permits him to look at our ooks and records and to interview persons he elieves may have information concerning omething he is investigating.

nternational Teamster: Does the Order prode any safeguards for our members?

rady: Yes indeed. Before the Investigations fficer can look at any books and records, he ust give us three business days advance notice, and we have a right to have our representative or accountant present during the examination.

International Teamster: What about interviews with officers and members?

Grady: The Investigations Officer can require a sworn statement be taken only if he has "reasonable cause," and in that case, he still must give the person to be examined at least 10 days advance notice in writing.

International Teamster: What rights does the officer or member have in this situation?

Grady: He or she has the right to be represented by an IBT member or legal counsel of his or her own choosing.

International Teamster: Assuming the Investigations Officer believes he has found something wrong, can he then discharge someone?

Grady: No. The Order provides for a wide range of due process rights in order to protect the member.

International Teamster: What do you mean?

Grady: Well, first, the person is entitled to know what he is being charged with, so the Order requires the Investigations Officer to send the person written specific charges.

International Teamster: What then?

Grady: The person charged has at least 30 days prior to any hearing to prepare his defense.

International Teamster: What kind of hearing will be held?

Grady: The Order mandates that a fair and impartial hearing shall be held before the Administrator.

International Teamster: Who is the Administrator?

Grady: He is the second person whom we jointly pick with the Government. In this capacity, he serves like an arbitrator.

International Teamster: Can the member have presentation at the hearing?

Grady: Yes. The Order provides that the person charged may be represented by an IBT member and that the rules and procedures generally applicable to labor arbitration hearings shall prevail, which we believe permits the person the option to have his own attorney represent him as well.

International Teamster: What is the standard to be used in determining the guilt or innocence of the person charged?

Grady: The standard is expressly provided to be "just cause," the same as used under a collective bargaining agreement.

International Teamster: Is the Administrator's decision final and binding?

Grady: Yes, but the person charged has the right to seek judicial review if he believes he didn't get a fair hearing, for example.

International Teamster: Does the Government have this same right of judicial review?

Grady: No, it rests only with the IBT member.

ernational Teamster: Can the Investigations Officer put a local into trusteeship?

Grady: Not without first giving the General President 10 days notice and the first opportunity to act.

International Teamster: What happens if the General President refuses or fails to act?

Grady: Then the Investigations Officer may proceed, but he may only do so in accordance with the IBT Constitution, and further, the entity trusteed has all of its legal rights preserved under this Order.

International Teamster: There has been some suggestion that the Administrator chosen by the parties can veto IBT expenditures, contracts, or appointments.

Grady: The Order provides the Administrator with veto power only, and I stress only, in the extremely unlikely event when the expenditures, contracts or appointments constitute or further an act of racketeering or contribute to the association, if any, of our members with La Cosa Nostra or any of its elements.

International Teamster: What about collective bargaining contracts? Does the Order have anything to do with negotiations?

Grady: None whatsoever.

International Teamster: Are there any other changes in the IBT Constitution we should know about in this regard?

Grady: The period of time to file internal charges under Article XIX Section 6(a) has been lengthened from one (1) to five (5) years and the General President and/or General Executive Board may exercise their discretion to suspend a member or officer facing criminal or civil trial while the charges are pending.

Elections

International Teamster: Before we get to discuss the 1991 Convention, what changes concerning the conduct of elections have been made by the Order?

Grady: There are two. The first is that all delegates to the 1991 Convention will continue to be chosen by secret ballot, but now the elections all will be held not more than six months before the convention, except for those delegates elected at local union elections scheduled to be held in the fall of 1990.

International Teamster: What is the other change?

Grady: A new provision is added to the Constitution that provides that a candidate for office may not accept campaign contributions from an employer, foundation, trust or any similar entity.

International Teamster: What do you expect will be the first order of business at the 1991 Convention?

Grady: The delegates will vote to confirm or ratify the changes to the IBT Constitution which provide for the at-large election of the General Executive Board.

International Teamster: What is this all about?

Grady: The Order provides that the General President, the General Secretary-Treasurer, five (5) at-large Vice Presidents, and eleven (11) Regional Vice Presidents, three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference, will all be nominated at the convention, but that the elections will be held at least four months later at local union halls by secret ballot vote.

International Teamster: How many delegate votes does a candidate have to receive to be nominated?

Grady: Five percent of those delegates eligible to vote for the office for which nominations are being held.

International Teamster: What if only one person is nominated?

Grady: Then he or she will be deemed elected as presently provided for in the Constitution.

International Teamster: Who will supervise this election?

Grady: A third person jointly selected by the IBT and the Government to be known as the Election Officer.

International Teamster: What is his job?

Grady: He along with the Administrator will resolve all disputes concerning the conduct and/or results of the elections.

International Teamster: What happens if the delegates vote down the changes to our Constitution concerning the way we elect the General Executive Board?

Grady: In that event, the Constitution Committee will undoubtedly present some alternatives for the delegates to consider because, by law, we must hold International Officer elections at least every five years.

International Teamster: Should the delegates vote to elect the General Executive Board in a manner different from what is set forth in the Order as you have just described, what will the Government do?

Grady: The Order provides that, if the delegates do not formally amend the IBT Constitution at the 1991 convention as set forth in the Order, then the Government retains the right to seek any appropriate actions, including enforcement of this Order, contempt or reopening of this litigation.

International Teamster: What does this mean?

Grady: The Government may decide to go back to Court or it may decide to let things stay the way they are. It is up to the Government to decide at that time under all the circumstances then prevailing.

International Teamster: How will voting be conducted when the delegates vote on the amendments to the IBT Constitution?

Grady: By roll call vote.

International Teamster: How will the International Trustees be elected?

Grady: There is no change from the way they are presently elected at the convention, except that if more than three persons are nominated, there will be an election with delegates voting by secret ballot.

Administration

International Teamster: Where will the Investigations Officer, Administrator, and Election Officer be housed?

Grady: They and their staff will be housed at our headquarters in Washington, DC.

International Teamster: Who pays them?

Grady: We do.

International Teamster: How much?

Grady: What is reasonable and, if we disagree, the IBT can go to Court to contest their salaries.

International Teamster: What standard will guide the Court?

Grady: The level of payment as authorized and approved by the IBT for payment of similar services and expenses.

International Teamster: How will they be selected?

Grady: The IBT and the Government will jointly agree upon two candidates for each position, and the Judge will select one from each of the two candidates.

International Teamster: Then we have a say in who gets these jobs?

Grady: Yes, as much say as the Government.

International Teamster: Then this is not *a trusteeship?*

Grady: That's correct. We continue to run the union exactly as in the past, except for the changes I've discussed already.

International Teamster: How long will these persons be around?

Grady: Their duties end with the 1991 Convention and the completion of any leftover matters that arise up until that time.

Review Board

International Teamster: What is the Review Board all about?

Grady: The Review Board doesn't begin until *after* the 1991 Convention.

International Teamster: What does it do?

Grady: It hears any allegations, charges, or claims of corruption from members.

International Teamster: What then?

Grady: It first permits the IBT affiliates to take action, and if they don't, or if the Review Board is dissatisfied, then it can hold a hearing and take appropriate action itself through the General Executive Board, consistent to the IBT Constitution and applicable Federal Laws.

International Teamster: How is the Review Board appointed?

Grady: One member is chosen by the United States Attorney General, one is chosen by the IBT, and a third is chosen by these two.

International Teamster: Are there any limits to their jurisdiction?

Grady: Yes indeed. The Order provides that they have jurisdiction in only two areas. First, allegations of corruption, and second, allegations of domination, control or influence by the La Cosa Nostra or any organized crime entity or group.

International Teamster: Is that all?

Grady: Yes. Matters concerning elections, jurisdictional disputes, collective bargaining, etc., are totally outside of their scope of authority.

International Teamster: How long will the Review Board last?

Grady: It will begin following the 1991 election as a part of the IBT Constitution.

International Teamster: What is the relationship between the Investigations Officer and Administrator, and the Review Board?

Grady: One picks up where the other ends, except that there will be a nine-month period in 1991 when there is an overlap for continuity purposes.

Other Matters

International Teamster: Did the individual members of the General Executive Board admit any wrongdoing?

Grady: Absolutely not. Indeed the Order has an express provision that states that nothing in the Order shall be construed as an admission of wrongdoing by an individual Executive Board member, including breach of any legal or fiduciary duty or obligation. The General President and the General Executive Board members have maintained their innocence throughout these proceedings, and the Government has agreed to the inclusion of the "Non-Admission" clause I just referred to above, as a specific provision to the Order.

International Teamster: What are the limits of the Order?

Grady: If a matter isn't addressed or referred to in the Order, then whatever it may be continues unchanged, and that includes the IBT Constitution, By Laws of IBT affiliates, IBT affiliated benefit funds, salaries, and terms of office of all officers.

International Teamster: You just said IBT benefits funds aren't covered by this Order. Is that true?

Grady: Yes, pension funds, health funds, etc., are totally outside of the scope of coverage of this Order.

International Teamster: Can IBT dissident groups or other outside entities claim any rights under this Order?

Grady: No, the IBT and the Government have agreed that this Order does not confer any rights or privileges upon any person or group that wasn't a party to the case.

International Teamster: When will this case be finally closed?

Grady: When the 1991 Convention is concluded and any litigation that may have developed out of the Convention has been completed, the parties will come back to Court, and ask the Court to enter a judgment dismissing this action with prejudice and without cost to either party.

International Teamster: What does "with prejudice" mean?

Grady: It means that the Government cannot sue us again for the same claims it has made in this case.

International Teamster: I heard the 1996 Convention is somehow involved.

Grady: The Election Officer, at the Government's expense, along with the U.S. Department of Labor, will be available to supervise the 1996 Convention but this should not delay the dismissal of the case in late 1991.

International Teamster: What about filling of vacancies? Is this changed?

Grady: Not at all. The General President will continue to fill vacancies for positions as is presently provided under the terms of the IBT Constitution.

International Teamster: What about a vacancy in the office of General President?

Grady: After the 1991 elections, a vacancy in the office of General President will be filled by a special election pursuant to the procedures for originally electing the person to the office of General President.

International Teamster: Do you have any final thoughts on the Order?

Grady: Well, I have tried to be as complete and accurate as I can, but the Order itself, which is a legal document, should be consulted if you have any specific questions beyond this summary.

International Teamster: Anything else?

Grady: I would like to say thank you to General President Bill McCarthy for his full cooperation in this case, as well as all the IBT staff, officers and members, because without their help we couldn't have survived this attack on our right to freely run the affairs of this great International Union.

International Teamster: Any last comment?

Grady: I'd like to call to your readers' attention, Judge David N. Edelstein's statement made in open court on March 14, 1989, when he approved and accepted the Court Order:

> "Today, the leaders of the International Brotherhood of Teamsters have rededicated themselves to the principle and spirit that guide labor unions in this country. They affirm that their union should be free from the influence of organized crime. In short, they pledge themselves to making the Teamsters Union a democratic institution, where integrity and the benefit of the workers are the guideposts by which they will travel. The leaders of this union have today done their members a great services."

For additional copies write to:

International Brotherhood
of
Teamsters

25 Louisiana Ave., N.W.
Washington, D.C. 20001

Covering 1970- June 1988

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tx-692/2

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 16

TEAMSTERS-RELATED PROSECUTIONS AND ENFORCEMENT PROCEEDINGS DURING TENURE OF EACH GENERAL EXECUTIVE BOARD MEMBER*

IBT Officer Name	Actions in Area Conference during GEB tenure	Defs. Convicted in Area Conference during GEB tenure	Actions Nationwide during GEB tenure	Defs. Convicted Nationwide during GEB tenure
TREROTOLA	103	184	205	346
McCARTHY	103	184	205	346
HOLMES	66	111	205	346
MORGAN	12	20	199	336
LAWSON**	—	—	199	336
MATHIS	11	18	193	328
WEINMEISTER	24	31	190	323
CLEVELAND	91	168	182	310
PRESSER	60	104	182	310
SCHURR	89	168	173	301
PETERS	44	83	137	251
SHEA	65	128	124	234
FRIEDMAN	35	64	109	202
COX	12	12	91	181
WEST	1	2	91	181
COZZA	43	101	80	154
RILEY	12	12	80	154
LIGUROTIS	13	11	47	61

* This chart reflects the cases described on the attached list of "Teamsters-Related Prosecutions and Civil Enforcement Proceedings." The categories entitled "Actions" include completed criminal actions, pending criminal actions and civil enforcement actions. The categories entitled "Defs. Convicted" include only those defendants who have already been convicted of criminal offenses.

** Edward Lawson is the Director of the Canadian Conference of Teamsters. This chart reflects only cases brought in the United States.

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June 1988

Senate Permanent Subcommittee
on Investigations
EXHIBIT # 16

TEAMSTERS INTERNATIONAL OFFICERS CONVICTED, INDICTED, OR OTHERWISE PUBLICLY CITED FOR IMPROPER ACTIVITY BEFORE AND/OR DURING TENURE IN OFFICE*

NAME AND IBT OFFICE	OFFENSES
1) JACKIE PRESSER GENERAL PRESIDENT 1986-present Elected in 1986 INTERIM GENERAL PRESIDENT 1983-1986 INT. VICE-PRESIDENT 1976-1983 Elected in 1981	Identified as La Cosa Nostra ("LCN")-influenced in 1986 report by President's Organized Crime Commission ("PCOC"). Identified as LCN-influenced in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.), and United States v. Salerno, 85 Cr. 139 (S.D.N.Y.). Identified as recipient of illegal payoffs in 1985 testimony before PCOC. Indicted in May 1986 for RICO offenses, embezzling union property, filing false labor reports and filing false ERISA documents in United States v. Presser, Cr. 86-114 (N.D. Ohio). Defendant in Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund). Defendant in Donovan v. Robbins, 78 Civ. 4075 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Health and Welfare Fund).

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* This list covers persons who either hold or have held Teamsters International Union office at any time since 1970 and is not intended to be exhaustive. Almost 50 percent of the persons who have served on the IBT General Executive Board at any time since 1970 appear on this list. 10 of the 18 current General Executive Board members appear on this list, and 25 persons who currently serve as International Union officials appear on this list.

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2) WELDON MATHIS ACTING GENERAL PRESIDENT June 1988-present GENERAL SECRETARY TREASURER 1985-present Elected in 1986 INT. VICE PRESIDENT 1972-1985 Elected in 1976, 1981	Convicted in 1954 of vagrancy and illegal possession of explosives.
3) JOSEPH TREROTOLA INT. VICE PRESIDENT 1966-present Elected in 1971, 1976, 1981, 1986	Identified as LCN-influenced in May 1988 report by New York State Organized Crime Task Force.
4) ROBERT HOLMES, SR. INT. VICE PRESIDENT 1966-present Elected in 1971, 1976 1981, 1986	Identified as unindicted co-conspirator in United States v. Collins, Cr. No. 84-20715 (E.D. Mich.) (RICO/employee benefit plan kickbacks case). Defendant in Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of of Central States Pension Fund).
5) JOSEPH W. MORGAN INT. VICE PRESIDENT 1971-present Elected in 1976, 1981 1986	Identified as LCN-influenced in 1986 PCOC report. Identified as LCN-influenced in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.). Defendant in Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund). Defendant in Donovan v. Robbins, 78 Civ. 4075 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Health and Welfare Fund).

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6) MAURICE R. SCHURR INT. VICE PRESIDENT 1978-present Elected in 1981, 1986 INT. TRUSTEE 1963-1978 Elected in 1966, 1971, 1976	Indicted in February 1984, convicted in July 1984 of conspiracy and receiving illegal labor payments in United States v. Schurr, 84 Cr. 00043 (E.D. Pa.), aff'd, 775 F.2d 594 (3d Cir. 1985), aff'd on rehearing, 794 F.2d 903 (3d Cir. 1986).
7) DONALD PETERS INT. VICE PRESIDENT 1981-present Elected in 1986	Heard on tape aiding scheme to bribe U.S. Senator in United States v. Dorfman, 81 Cr. 269 (N.D. Ill.), aff'd sub nom. United States v. Williams, 737 F.2d 594 (7th Cir. 1984), cert. denied, 470 U.S. 1003 (1985). Identified as LCN-influenced in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.). Defendant in Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund).
8) HAROLD FRIEDMAN INT. VICE PRESIDENT 1983-present Elected in 1986	Identified as having obtained Teamsters office with LCN support in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.). convicted JAN 89 Indicted in May 1986 for RICO offenses, embezzling union property, filing false labor reports and filing false ERISA documents in United States v. Presser, Cr. 86-114 (N.D. Ohio). Convicted in 1950 of interstate transportation of stolen vehicle.
9) JACK D. COX INT. VICE PRESIDENT 1984-present Elected in 1986	Convicted in 1947 of assault and battery.

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10)	THEODORE COZZA INT. VICE PRESIDENT 1985-present Elected in 1986 INT. TRUSTEE 1978-1984 Elected in 1981	Convicted in 1941 of operating an illegal numbers operation. Convicted in 1935 of bribery and perjury. Convicted in 1935 of illegal entry.
11)	SALVATORE PROVENZANO INT. VICE PRESIDENT 1971-1984 Elected in 1976, 1981	Identified as LCN-influenced in 1986 PCOC report. Identifed as LCN-influenced in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.). Indicted in April 1983, convicted in March 1984 of conspiracy, mail fraud, and receiving employee benefit plan kickbacks in United States v. Marcus, 83 Cr. 104 (D.N.J.), aff'd mem. sub nom. United States v. Provenzano, 770 F.2d 1077 (3d Cir. 1985). Found in February 1984 to have aided and abetted the commission of a RICO offense and ordered removed from local union office in United States v. Local 560, 581 F.Supp. 276 (D.N.J. 1984), aff'd, 780 F.2d 267 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986). Indicted in September 1980 for RICO offenses in United States v. Provenzano, Cr. No. 80-315 (D.N.J.); acquitted by jury.
12)	ROY WILLIAMS GENERAL PRESIDENT 1981-1983 Elected in 1981 INTERIM GENERAL PRESIDENT 1981 INT. VICE PRESIDENT 1971-1981 Elected in 1971, 1976	Admitted LCN influence over Teamsters and his personal commission of various crimes in testimony before PCOC, in United States v. DeLuna, 83 Cr. 00124 (W.D. Mo.), and United States v. Salerno, 86 Cr. 245 (S.D.N.Y.). Identified as LCN-influenced in 1986 PCOC report.

	Identified as LCN-influenced in *United States* v. *Salerno*, 86 Cr. 245 (S.D.N.Y.), and *United States* v. *Salerno*, 85 Cr. 139 (S.D.N.Y.). Cited for union corruption in 1981 Senate subcommittee report. Indicted in May 1981, convicted in December 1982 of conspiracy, ITAR, and wire fraud in *United States* v. *Dorfman*, *et al.*, 81 Cr. 269 (N.D. Ill.), *aff'd sub nom.* *United States* v. *Williams*, 737 F.2d 594 (7th Cir. 1984), *cert. denied*, 470 U.S. 1003 (1985). Defendant in *Donovan* v. *Fitzsimmons*, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund). Defendant in *Donovan* v. *Robbins*, 78 Civ. 4075 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Health and Welfare Fund).
13) FRANK FITZSIMMONS GENERAL PRESIDENT 1971-1981 Elected in 1971, 1976 INT. VICE PRESIDENT 1966-1971	Defendant in *Donovan* v. *Fitzsimmons*, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund). Defendant in *Donovan* v. *Robbins*, 78 Civ. 4075 (N.D. Ill.) (civil action by Secretary of labor alleging violations of ERISA by Trustees of Central States Health and Welfare Fund). Cited for pension fund fraud in 1977 Senate subcommittee report.

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14) JAMES HOFFA GENERAL PRESIDENT 1958-1971 Elected in 1961, 1966	Identified as LCN-influenced in 1986 PCOC report. Indicted in 1964, convicted in 1965 of conspiracy, mail fraud and wire fraud in United States v. Hoffa, et al., 63 Cr. 317 (N.D. Ill.), aff'd, 436 F.2d 1243 (7th Cir. 1970), cert. denied, 400 U.S. 1000 (1971). Indicted in 1963, convicted in 1964 of jury tampering in United States v. Hoffa, et al., Cr. No. 13,383 (M.D. Tenn.), aff'd, 349 F.2d 20 (6th Cir. 1965), aff'd, 385 U.S. 293 (1966).
15) JESSE CARR INT. VICE PRESIDENT 1984-1985 INT. TRUSTEE 1976-1983 Elected in 1981	Defendant in Donovan v. Jesse Carr, Civ. No. 81-017 (D. Alaska) (civil action by Secretary of Labor alleging violations of ERISA by Teamsters benefit fund trustees). Indicted in September 1968 for receiving illegal labor payments in United States v. Carr, Cr. No. A-75-68 (D. Alaska); indictment dismissed on government's motion. Indicted in September 1968 for extortion in United States v. Carr, Cr. No. A-74-68 (D. Alaska); indictment dismissed for failure to prosecute. Indicted in September 1968 for embezzling union funds in United States v. Carr, Cr. No. A-73-68 (D. Alaska); acquitted at close of government's case.

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16) WILLIAM PRESSER
INT. VICE PRESIDENT
1967-1976
Elected in 1971, 1976

Identified in testimony as having received employee benefit plan kickbacks in United States v. DeLuna, 83 Cr. 00124 (W.D. Mo.), and United States v. Salerno, 86 Cr. 245 (S.D.N.Y.).

Indicted in July 1970, convicted in September 1971 of receiving illegal labor payments in United States v. Presser, Cr. No. 70-393 (N.D. Ohio).

Convicted in 1960 of obstruction of justice in United States v. Presser, Cr. No. 23276 (N.D. Ohio), aff'd, 292 F.2d 171 (6th Cir. 1961), aff'd, 371 U.S. 71 (1962) (per curiam).

Convicted in 1960 of contempt of Congress in United States v. Presser, (D.D.C.), aff'd, 284 F.2d 233 (D.C. Cir. 1960 cert. denied, 365 U.S. 816 (1961).

Defendant in Donovan v. Fitzsimmons, 78 Civ. 342 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Pension Fund).

Defendant in Donovan v. Robbins, 78 Civ. 4075 (N.D. Ill.) (civil action by Secretary of Labor alleging violations of ERISA by Trustees of Central States Health and Welfare Fund).

PS:mm
5/3179/2b

17)	ANTHONY PROVENZANO* INT. VICE PRESIDENT 1960-1966	Indicted in 1978, convicted in 1978 of first degree murder of Anthony Castellitto in 1961 in New York v. Provenzano, No. C5160 (Ulster Co. 1978), aff'd in relevant part, 79 A.D.2d 811, 435 N.Y.S. 2d 369 (3d Dep't 1980).
		Indicted in 1960, convicted in 1963 of extortion in United States v. Provenzano, (D.N.J.), aff'd, 334 F.2d 678 (3d Cir.), cert. denied, 379 U.S. 947 (1964).
18)	JACK C. ANCONA INT. REPRESENTATIVE 1981-present	Identified in testimony as having obtained his International Union position with LCN support in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.).
19)	WILLIAM P. EVANS INT. AUDITOR 1981-present	Cited in 1986 PCOC report for participating in violent disruption of Teamsters dissidents meeting in 1983.
20)	BARRY FEINSTEIN INT. REPRESENTATIVE 1986-present	Cited by New York State Insurance Commission for fiduciary breaches in 1981.
21)	DONALD FITZSIMMONS INT. AUDITOR 1981-present GENERAL AUDITOR 1976-1980	Cited for pension fund fraud by Senate subcommittee in 1977.
22)	ANTHONY HUGHES ASST. TO THE GENERAL PRESIDENT 1985-present	Indicted in May 1986 for RICO offenses, embezzling union property, filing false labor reports, and filing false ERISA documents in United States v. Presser, Cr. 86-114 (N.D. Ohio).

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* Although Provenzano left International Office in 1966, he continued to exercise substantial influence over the affairs of the Teamsters International Union well into the 1970's.

PS:gh
5/3179/2b

23)	ROBERT KAVALEC ASST. TO THE GENERAL PRESIDENT and INT. REPRESENTATIVE 1983-present	Convicted in 1970 of harboring a fugitive.
24)	ROLLAND McMASTER INT. REPRESENTATIVE 1981-present GENERAL ORGANIZER 1971-1980	Convicted in 1964 of receiving illegal labor payments in *United States* v. *McMaster*, (E.D. Mich.), *aff'd*, 343 F.2d 176 (6th Cir.), *cert. denied*, 382 U.S. 818 (1965).
25)	EVERETT V. MOODY INT. REPRESENTATIVE 1984-present	Convicted in 1954 of interstate transport of stolen vehicle.
26)	LEROY NUNES INT. REPRESENTATIVE 1982-present	Identified as recipient of illegal labor payments in testimony in *United States* v. *Sheeran*, 80 Cr. 36 (D. Del.), *aff'd in relevant part*, 699 F.2d 112 (3d Cir.), *cert. denied*, 461 U.S. 931 (1983).
27)	CHARLES O'BRIEN INT. REPRESENTATIVE 1981-present GENERAL ORGANIZER 1960's-1980	Convicted in 1978 of making false statements on loan application in *United States* v. *O'Brien*, Cr. No. 77-81349 (E.D. Mich.), *aff'd*, No. 78-5356 (6th Cir. Mar. 9, 1979).
		Convicted in 1977 of receiving illegal labor payments in *United States* v. *O'Brien*, Cr. No. 76-80965 (E.D. Mich.), *aff'd. mem.*, 571 F.2d 583 (6th Cir. 1978), *cert. denied*, 439 U.S. 1070 (1979)
28)	CARMINE PARISE INT. REPRESENTATIVE 1984-present	Identified as having obtained Teamsters office with LCN support in testimony in *United States* v. *Salerno*, 86 Cr. 245 (S.D.N.Y.).
		Temporarily restrained from harassing grand jury witnesses in *United States* v. *Parise*, Civ. No. 87-3150 (N.D. Ohio).

PS:gh
5/3179/2b

29) ROBERT SASSO INT. REPRESENTATIVE March 1988-present	Proven to have received an illegal labor payment in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.), and United States v. Salerno, 85 Cr. 139 (S.D.N.Y.). Convicted in 1958 of burglary and petty larceny.
30) ANDREW SUCKHART ASST. TO THE GENERAL PRESIDENT and INT. REPRESENTATIVE 1983-present INT. REPRESENTATIVE 1982	Convicted in 1970 of interstate transport of stolen property and possession of property stolen from an interstate shipment.
31) SAMUEL E. STINTSMAN INT. REPRESENTATIVE 1984-present	Convicted in 1959 of assault and battery.
32) GEORGE VITALE INT. REPRESENTATIVE 1982-present	Convicted in 1973 of embezzling union funds in United States v. Vitale, Cr. No. 46191 (E.D. Mich.). Convicted in 1972 of receiving illegal labor payments in United States v. Vitale, Cr. No. 47912 (E.D. Mich.).
33) SAMUEL ANCONA INT. REPRESENTATIVE 1973-1985	Identified as having participated in payment of kickbacks to Teamsters pension fund trustee in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.).
34) ROCCO DePERNO INT. REPRESENTATIVE 1981-1986 GENERAL ORGANIZER 1960's-1980	Indicted in October 1981, convicted in June 1982 of witness tampering in New York v. DePerno, No. 81-313 (Oneida County). Proven to have been the intended recipient of an employee benefit plan kickback in United States v. Provenzano, 77 Cr. 889 (S.D.N.Y.), aff'd, 615 F.2d 37 (2d Cir.), cert. denied, 446 U.S. 953 (1980).

35)	RICHARD FITZSIMMONS GENERAL ORGANIZER 1971-1980	Indicted in December 1984, convicted in October 1987 of committing a RICO offense in United States v. Collins, 84-20715 (E.D. Mich.).
		Indicted in August 1979, convicted in February 1980 of committing a RICO offense and receiving illegal labor payments in United States v. Fitzsimmons, Cr. No. 79-80437 (E.D. Mich.).
36)	DONALD F. GILLETTE INT. REPRESENTATIVE 1974-1975	Convicted of conspiracy to receive illegal labor payments in United States v. Fischetti, Cr. No. 70-221 (S.D. Fla.), aff'd in relevant part, 450 F.2d 34 (5th Cir. 1971), cert. denied, 450 U.S. 1016 (1972).
37)	FRED ROBERTO INT. REPRESENTATIVE 1981-1986 GENERAL ORGANIZER 1960's-1980	Indicted in June 1986, convicted in April 1987 of embezzling from an employee benefit plan in United States v. Pisano, Cr. No. 86-30 (D. Conn.), aff'd, Nos. 87-1304, 87-1389 (2d Cir. Jan. 25, 1988).
38)	JOHN SANSONE INT. REPRESENTATIVE 1981-1986	Identified as having obtained Teamsters International Union office with LCN support in testimony in United States v. Salerno, 86 Cr. 245 (S.D.N.Y.).
39)	RUDY THAM INT. REPRESENTATIVE 1981-1982 GENERAL ORGANIZER 1960's-1980	Convicted in 1980 of embezzling union funds and filing false labor reports in United States v. Tham, Cr. No. 79-0349 (N.D. Cal.), aff'd, 665 F.2d 855 (9th Cir. 1981), cert. denied, 456 U.S. 944 (1982).

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 17

MUDGE ROSE GUTHRIE ALEXANDER & FERDON

180 MAIDEN LANE
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515 NORTH FLAGLER DRIVE
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75002 PARIS, FRANCE
(1) 42.61.57.71

April 6, 1989

Senator Sam Nunn
Senate Dirksen Office Building
Room 303
Washington, D.C. 20510-1001

Dear Senator Nunn:

My firm serves as outside counsel for the International Brotherhood of Teamsters in the Government's RICO lawsuit which was the subject of hearings before the Permanent Subcommittee on Investigations this past Tuesday, April 4. At that hearing, one of the suggestions made by IBT General President McCarthy and General Counsel Grady in their joint statement was that RICO be clarified to preclude the appointment of a "trustee, in any form," prior to a full and final evidentiary hearing. In responding to this proposal and to questions from yourself, United States Attorney Benito Romano stated that no preliminary appointment of a trustee had been sought by the Government in the IBT case and that, rather, the Government had sought only to have a trustee appointed, and IBT officers removed, following a trial on the merits. These statements by Mr. Romano were substantially misleading.

Specifically, in papers filed at the very commencement of the IBT lawsuit on June 28, 1988, the Government expressly asked the Court, by way of preliminary relief and before any evidentiary hearing, to immediately appoint "one or more court liaison officers" who would be given the following immediate powers:

(i) all the powers of the union's General President and General Executive Board to discipline corrupt or dishonest officers, agents, employees, or members of any union entity, including not only the international but also all locals and other subordinate bodies;

(ii) the power to appoint "temporary trustees to run the affairs" of any such local or other subordinate body;

(iii) the power to petition the Court to override any provisions of the IBT Constitution that impeded the court liaison officers in disciplining any union officer, agent, employee, or member;

(iv) the power to review all proposed actions of the General Executive Board relating to expenditures of union funds, appointments to union office, or changes in the union constitution or by-laws, and to petition the Court for an order restraining any such proposed action whenever the court liaison officer "deems it necessary to protect the rights of members" of the union.

Furthermore, in the hearing before Judge Edelstein on July 5, 1988 (*i.e.*, a week after the lawsuit was filed), the Government confirmed that it sought the immediate granting of this relief solely on the basis of its papers. It is therefore clear that, well before trial or any other evidentiary hearing, the Government sought appointment of a form of trustee under the name "court liaison officer" and that this "officer" would have had the power to exercise functions entrusted to the highest IBT officers as well as to appoint trustees and to remove any officers he found corrupt or dishonest. Fortunately, Judge Edelstein denied this request, holding that these matters must await trial. (A copy of Judge Edelstein's Order and Opinion of July 7, 1988 is here enclosed.)

So that the record may be clarified, we respectfully request that this letter and enclosure be made part of the record of your subcommittee's recent proceedings and that it be circulated to other members of the subcommittee and their staffs. Thank you very much for your kind consideration of this request.

Very truly yours,

Jed S. Rakoff

Jed S. Rakoff

JSR:ner
cc: Eleanore Hill, Chief Counsel, PSI
Benito Romano, U.S. Attorney, SDNY
William McCarthy, General President, IBT
James Grady, General Counsel, IBT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, ET AL.,

Defendants.

ORDER
88 Civ. 4486 (DNE)

EDELSTEIN, District Judge:

On June 28, 1988, the United States government filed this civil action against the International Brotherhood of Teamsters ("Teamsters" or "Union"), its General Executive Board ("Board"), the individual members of the Board, the Commission of La Cosa Nostra ("LCN"), and 26 alleged members of La Cosa Nostra ("Cosa Nostra defendants") alleging violations of the Racketeering Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq*. On the same day, this court, upon the government's application, signed an order to show cause why a preliminary injunction should not be entered preventing:

1. Participation of all the Cosa Nostra defendants in the affairs of the Teamsters or any other union, or having dealings with any officer, employee, or auditor of Teamsters or other labor organization regarding the

ED ON [illegible]
P/M [illegible] FEES
DOCK'D ☐ DIAR'D ☐

affairs of any labor organization;

2. Members of the Board and their successors from committing any acts of racketeering, or from associating, directly or indirectly, with any members of LCN.

The government further requested as part of the preliminary injunction the appointment of one or more court liaison officers *pendente lite* with the responsibilities:

a. To discipline corrupt or dishonest officers, agents, members, and employees of the Union, to appoint trustees for corrupt locals, and to relieve liaison officers from any Union restriction that impedes the disciplining of officials;

b. To review proposed board actions regarding expenditures, appointments, and changes in the constitution and by-laws.

Finally, the government seeks to enjoin members, officers, administrators, beneficiaries, and employees of the Teamsters from interfering with the court liaison officer's duties.

As part of the order to show cause signed on June 28, the court entered a temporary restraining order:

1. Restraining all of the Cosa Nostra defendants *except* John Tronolone from taking or causing to be taken any action to influence directly or indirectly the business affairs of the Board, or any subdivision of the Union;

2. Restraining members of the Board and their successors

and agents from alienating or encumbering assets outside the scope of ordinary and lawful expenses and from concealing, destroying, or altering records.

The order to show cause was originally returnable July 5, 1988 at 10:00 a.m. On application of the Teamsters and without opposition of the government, the time of the hearing was adjourned until 2:00 p.m. on July 5, at which time the parties that appeared were heard.

All of the defendants present requested an evidentiary hearing and sufficient time to prepare for such hearing. The defendants, particularly the Union, strenuously argued that they had valid legal and factual defenses that required time to prepare and present. Further, the Union, Joseph Massino, and William J. McCarthy indicated an intent to file dispositive motions. Accordingly, the court has before it applications for an evidentiary hearing, for additional time to prepare, and for leave to make motions.

The government contends that it has made a sufficient showing to warrant the preliminary relief it has requested. The government has further indicated that it is prepared to go forward with a hearing, at the court's request. In either event, the government made it clear that its primary concern is the expeditious determination of the issues in this case.

After considering the government's submissions, the defendants' papers, and the arguments of both parties, the court has determined that the interests of justice would best be served by requiring an expedited discovery schedule, consolidating a hearing for preliminary relief with a trial on the merits, and setting an early trial date.

DISCUSSION

This case is, to say the least, unique; if not in substance, then in scope. It is apparent from the voluminous submissions by the government and the defendants' argument that this case requires determination of important issues of fact and law. It would clearly be imprudent to grant the preliminary relief sought by the government without an evidentiary hearing. See Fengler v. Numismatic Americana, Inc., 832 F.2d 745, 748-49 (2d Cir. 1987). Given the nature of this case and the importance of the issues it involves, a meaningful hearing would require allowing the defendants adequate time to prepare their case. The time afforded by the order to show cause is inadequate in light of the complex nature of the case.

By its nature, a preliminary injunction hearing is not always suited to a thorough exploration of complex legal and factual issues. The defendants contend that discovery will be necessary to fully develop their defense. It is apparent that the legal and factual questions presented by this case require more time to prepare than the time within which a preliminary injunction hearing would typically be heard. Further, much of the evidence presented at such a hearing would be duplicative of evidence adduced at a trial. Thus, the court finds that a consolidation of the preliminary hearing and trial on the merits, pursuant to Federal Rule of Civil Procedure 65(a)(2), would expedite the final disposition of this case and would allow for a more orderly and thorough examination of the evidence and determination of the legal issues. See, e.g., United States v. Local 560, 581 F. Supp. 279 (D. N.J. 1984), aff'd, 780 F.2d 267 (3d Cir. 1986).

Three of the defendants, moreover, have indicated an intent to file dispositive motions. The adjournment required for a trial on the merits would also allow time for determination of such motions prior to trial.

Accordingly, the court hereby orders that:

1. Dispositive motions by defendants are to be filed no later than August 8, 1988.
2. The government's response to those motions is to be filed no later than August 22, 1988.
3. Discovery is to commence July 18, 1988.
4. Discovery is to be completed no later than January 16, 1989.
5. A joint pretrial order is to be filed by February 16, 1989.
6. Trial is scheduled for February 27, 1989.
7. To maintain the status quo among the parties prior to trial, the court, pursuant to 18 U.S.C. § 1964(b), continues the restraining order entered on June 28,

1988, pending further order of this court.

8. Nothing in this order is to be construed as extending the time to answer the complaint.

CONCLUSION

The preliminary injunction hearing in this case is hereby consolidated with the trial on the merits pursuant to rule 65(a). Briefing and discovery are to proceed upon the schedule contained in this order.

SO ORDERED.

DATED: July 7, 1988
New York, New York

U. S. D. J.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 19a

LEGAL FEES AND BAIL BONDS PAID BY LOCAL 30/30B FOR DEFENDANTS CONVICTED ON 11/23/87

Defendant	Fee	Bond	Total
Stephen Traitz, Jr.	$255,382.29	$40,000	$295,382.29
Edward P. Hurst	40,442.65	2,500	42,942.65
Michael Mangini	29,521.75	15,000	44,521.95
Robert Crosley	40,216.48	20,000	60,216.48
Michael Daly	44,550.00	10,000	54,550.00
Daniel Cannon	37,090.43	10,000	47,090.43
Mark Osborn	49,494.82	10,000	59,494.82
Robert Medina	65,039.51	10,000	75,039.51
Ernest Williams	34,500.00	20,000	54,500.00
James Nuzzi	53,568.75	10,000	63,568.75
Stephen Traitz, III	45,368.50	15,000	60,368.50
Joseph Traitz	68,707.95	10,000	78,707.95
Richard Schoenberger	29,150.00	30,000	59,150.00
	$793,033.10	$202,500	$995,533.10

CHART FOR CIVIL RICO ACTION NO. 87-7718
E.D. PA - LOCAL 30 - 30B, ET AL

PREPARED BY
D.O.L. - OFFICE OF LABOR RACKETEERING

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 19b

LOCAL 30/30B EXPENDITURES RELATING TO INVESTIGATION & TRIAL OF 13 DEFENDANTS
(STEPHEN TRAITZ, ET AL)

1.	LEGAL FEES (1986, 1987)	$ 793,033.10
2.	ALAN HART ASSOCIATES, INC. - 1987 (LEGAL - INVESTIGATIVE SUPPORT)	17,821.24
3.	BAIL BOND FEES	202,500.00
4.	FOOD CATERING DURING CRIMINAL TRIAL (OCTOBER & NOVEMBER, 1987) - CAVANAUGH'S CATERING	26,704.00
	TOTAL	$1,040,058.34

CHART FOR CIVIL RICO ACTION NO. 87-7718
E.D. PA - LOCAL 30 - 30B, ET AL

PREPARED BY
D.O.L. - OFFICE OF LABOR RACKETEERING

Senate Permanent Subcommittee on Investigations

EXHIBIT # 19c

LOCAL 30/30B UNION FUND DISBURSEMENTS RELATING TO ASSAULT OF ROBERT KRYSZCZAK

DATE	PAYEE	AMOUNT
VARIOUS DATES - 1987	MERANZ & KATZ	$ 21,132.00
VARIOUS DATES - 1986	DUANE, MORRIS & HECKSCHER	3,402.41
VARIOUS DATES - 1987		27,146.49
9-24-87	BOB & PAT KRYSZCZAK & R. SPRAGUE	200,000.00
9-24-87	BOB & PAT KRYSZCZAK & R. SPRAGUE	36,580.98
9-24-87	RICHARD SPRAGUE	40,000.00
	TOTAL	$328,261.88

FINE PAID TO N.L.R.B. BY LOCAL 30/30B, AS FINE FOR CONTEMPT, RESULTING FROM ASSAULT OF PETER SNOW BY STEPHEN TRAITZ, III AND RICHARD SCHOENBERGER

9-8-87	U.S. TREASURY (N.L.R.B.)	$50,000.00

CHART FOR CIVIL RICO ACTION NO. 87-7718,
E.D. PA - LOCAL 30 - 30B, ET AL

PREPARED BY
D.O.L. - OFFICE OF LABOR RACKETEERING

Senate Permanent Subcommittee on Investigations

EXHIBIT # 19d

LOCAL 30/30B DISBURSEMENTS MADE TO OR ON BEHALF OF "11 MEN" CONVICTED IN ALTEMOSE INCIDENT IN VALLEY FORGE ON JUNE 5, 1972

DATE	PAYEE(S)	AMOUNT
6-20-80	11 CHECKS TO 11 MEN AT $340	$ 3,740
2-2-81	11 CHECKS TO 11 MEN AT $500	5,500
8-26-82	11 CHECKS TO 11 MEN AT $100	1,100
11-12-82	11 CHECKS TO 11 MEN AT $100	1,100
3-2-83	11 CHECKS TO 11 MEN AT $100	1,100
6-1-83	10 CHECKS TO 10 OF 11 MEN AT $100	1,000
12-18-84	10 CHECKS TO 10 OF 11 MEN AT $200	2,000
3-15-85	11 CHECKS TO 11 MEN AT $100	1,100
	SUB-TOTAL	$16,640
10-11-83	ROBERT SIMONE, ESQUIRE (LEGAL FEES FOR 11 MEN)	$16,050
11-24-84	VAN GROSSI & RECCHUITI, ESQUIRE (LEGAL FEES FOR 11 MEN)	15,000
3-20-85	VAN GROSSI & RECCHUITI, ESQUIRE	20,000
	SUB-TOTAL	$51,050
	TOTAL	$67,690

LOCAL 30/30B MINUTES ALSO REFLECT THE FOLLOWING EXCERPTS REGARDING THE "11 MEN"

JUNE, 1980	The welfare of the 11 men was discussed "so that their financial obligations could be met while they are in jail".
JULY, 1980	"The men that are serving time in Graterford are receiving full benefits and pay for their families".
OCTOBER, 1980	"The eleven men in the Altemose case are receiving full benefits, pay and income tax paid while serving time in Graterford Prison".
FEBRUARY, 1981	"The men who spent eight months in Graterford Prison were called to the front of the meeting and given an ovation".
MAY, 1981	"A motion was placed on the floor by Jack Kinkade for a plaque commemorating the time spent in jail by our eleven men".
SEPTEMBER, 1981	"The plaque commemorating the time spent in prison by the eleven men was shown to the membership".

CHART FOR CIVIL RICO ACTION NO. 87-7718,
E.D. PA - LOCAL 30 - 30B, ET AL

PREPARED BY
D.O.L. - OFFICE OF LABOR RACKETEERING

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 19e

EXCERPTS FROM MINUTES OF GENERAL MEETINGS AND EXECUTIVE BOARD MEETINGS OF LOCAL 30/30B

DATE	COMMENTS
JUNE, 1986	"A motion was placed on the floor to have all officers and business agents paid who feel they want to take the Fifth Amendment and be incarcerated for 18 months during the present grand jury investigation. A motion was placed on the floor to give Steve Traitz an automobile if he is forced to vacate his position as business manager of Local 30/30B, and pay his salary if he is incarcerated".
JULY, 1986	"Passed; Motions to vote. Paid legal expenses. Pay for officers while in jail. Car for Steve Traitz Motion to raise pay 15% for those indicted."
JULY, 1986 "Special Meeting"	"A motion was put on the floor by Mike Daly to pay the salary of the business manager and all those who are incarcerated due to this investigation. It was further voted that Steve Traitz will be allowed to keep his automobile in the event of his indictment".
APRIL, 1987	"Vote pay bills passed". Vote pay for appeals and fines if found guilty. Vote by members for BAs to keep automobiles if trial goes against them passed. Vote to pay attorneys passed.
NOVEMBER, 1987	"Motion to pay bills passed. Motion to pay attorneys passed. Motion to pay attorneys in Montgomery County if presentment comes down from State passed. Motion to pay Steve Traitz's attorney's fees if presentment comes down from Bucks County passed. Motion for BAs found guilty to keep cars passed".

CHART FOR CIVIL RICO ACTION NO. 87-7718,
E.D. PA - LOCAL 30 - 30B, ET AL

PREPARED BY
D.O.L. - OFFICE OF LABOR RACKETEERING

RECEIVED BY
SENATE PERMANENT
SUBCOM. ON INVESTIGATIONS

MAY 10 1989

MAJORITY OFFICE

ROBERT E. WELSH, JR.
CHIEF COURT LIAISON OFFICER
ROOFERS LOCAL 30/30B
UNDER THE DECREE OF UNITED STATES DISTRICT COURT
SUITE 750
THE CURTIS CENTER
INDEPENDENCE SQUARE WEST
PHILADELPHIA, PA 19106
215-440-7689

Senate Permanent Subcommittee on Investigations

EXHIBIT # 22

May 2, 1989

Senator Sam Nunn
Senate Permanent Subcommittee on Investigation
100 Russell Senate Office Building
Washington, DC 20510

Re: Hearing on Federal Government's Use of
Trusteeship under the RICO Statute
(Hearing Held April 6, 1989)

Dear Senator Nunn:

I testified before the above-described committee on April 6, 1989, in my capacity as Chief Court Liaison Officer for Roofers Local 30/30B under the appointment of the United States District Court for the Eastern District of Pennsylvania in the matter captioned United States of America v. Roofers Local 30/30B, Civil Action Number 87-7718. On the basis of your oral instructions at the end of the hearing session, and on the basis of my conversations with members of the subcommittee staff, I am writing to follow-up on and clarify a particular item as to which I testified.

You asked the panel members to comment on the level of support provided by various government agencies in the operation of the trusteeships in question. I responded that, with "one exception, I have been, I think, well supported by the law enforcement and administrative establishment." N.T. 4-6-89, page 91-92. I described the single exception as follows:

> The exception is in financial reviews. Despite the fact that records were subpoenaed over the years from the Roofers Union, as near as I can tell no one ever did anything more than check the arithmetic on the LM-2 reports filed with the Department of Labor.
>
> As a result, the Judge appointed the accounting firm of Peat Marwick to conduct a ground up financial review. As a result of what we found out there, we are undertaking a very comprehensive set of controls that I think should satisfy the Court's concerns.

N.T. 4-6-89, p. 92.

My discussion of the role of Peat Marwick should not suggest that there was a lack of financial scrutiny by any government agency. Rather, it was and continues to be my strongly held opinion that a variety of service providers such as accountants and the like had not provided the adequate and independent level of services required for the appropriate and responsive financial operation of the Union.

This is a somewhat distinct issue from the question of whether or not law enforcement and administrative agencies had conducted financial reviews of the Union over the last few years. The most significant review was conducted by the Office of Labor Racketeering of the Office of the Inspector General of the United States Department of Labor. The Special Agent in Charge of the Philadelphia office, Robert McKee, was largely responsible in assisting the government attorneys in the presentation of the civil RICO case which resulted in the creation of this decreeship. Financial evidence was presented which was relied upon by the Court in determining that there was a pattern of racketeering. This financial evidence may be placed in three categatories. First, this financial evidence consisted of testimony that the Union had unlawfully paid approximately $1 million in defense expenses for its recently convicted officers.

Second, testimony was presented that substantial six figure settlements and fines were paid out of the Union treasury (and therefore out of members' dues contributions) as a result of acts of violence of the then-leadership, for the purpose of settling or resolving civil or administrative claims against the Union.

Third, there was testimony concerning other illegal or questionable disbursements such as the approval by the rank and file, under dubious circumstances, of an automatic 15% raise for any business agent or officer indicted for a federal crime.

Clearly, therefore, this type of financial review was conducted as part of the civil RICO case and was expressly relied upon, in part, by the Court, in crafting the relief that it imposed.

Finally, I should also note that the financial examination by the Office of Labor Racketeering provided what I will call a "road map" for the review by Peat Marwick of the operation of the Union and its affiliated benefit plans. The Office of Labor Racketeering was able to put together an outline of areas which it believed would be helpful and, as a result, Peat Marwick was able to focus its energies and rely upon the substantial amount of ground work already conducted.

In summary, therefore, my clarification may be distilled to this: a substantial amount of financial review and analysis was conducted by the Office of Labor Racketeering and was expressly the basis for the Court's ruling, having been cited amply in the Court's memorandum supporting the imposition of the decreeship.

There still, however, remains the question of the financial analysis and review by independent service providers or government entities to ensure that the Union was conducting its affairs in a proper and professional manner. No such examination had been conducted. Thus, Peat Marwick was appointed by the Court to fill a void and to place before the Court and the parties a comprehensive set of recommendations. This is a matter which is not within the direct mission of any government agency and, therefore, was the basis for a separate appointment by the Court.

If the Committee or the staff have any further questions on this or other matters related to the decreeship in this case, I look forward to responding promptly.

Sincerely,

Robert E. Welsh, Jr.

REW/sls

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 30

STATEMENT OF
PETER R. GINSBERG
ASSISTANT UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BEFORE THE
U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

HEARINGS ON
FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS
UNDER THE RICO STATUTE
APRIL, 1989

Statement of Peter R. Ginsberg, Assistant United States Attorney, Eastern District of New York, To The Permanent Subcommittee On Investigations, Concerning The Racketeer Influenced And Corrupt Organizations Act (RICO)[1]

Time and again organized crime groups have withstood criminal prosecutions and continued to wield power and influence while their leaders are imprisoned. Sending criminals to jail obviously is necessary and appropriate, but it is unrealistic to believe that criminal prosecutions alone can deal effectively with organized crime in the long-run.

Congress, in enacting the Racketeer Influenced and Corrupt Organizations Act (RICO), Title 18, United States Code, Sections 1961-68, recognized that organized criminal groups should be economically damaged for their racketeering activities. Separating racketeering groups from the entities and businesses which they have corrupted, controlled and influenced is an effective civil tool available under RICO yet used all too infrequently. Economic destruction leaves a scar more longstanding than forcing a handful of Mafia chieftans to spend a few years in prison. In addition, the lesser burden of proof is an attractive prosecutorial incentive to invoking civil RICO,

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1/ This Statement reflects the opinions solely of the author.

as is the ability to force defendants to testify in civil actions.

As an example of the limited effect of criminal prosecutions, even after racketeering convictions in the Eastern District of New York of several members of the Bonanno Organized Crime Family of La Cosa Nostra, including the Boss and Underboss, the Family's business proceeded almost without interruption. The control and corruption of a local Teamsters union continued. The gambling and extortion activities flourished.

With the potential of civil prosecution in mind, the United States Attorney's Office for the Eastern District of New York commenced in August 1987 a unique civil RICO action, seeking to restrain the influence of the Bonanno Family and to strike an economic blow to that major organized crime family in a manner not possible with criminal prosecutions. United States of America v. Bonanno Crime Family of La Cosa Nostra, Civil Action No. CV-87-2974 (E.D.N.Y.) (Glasser, J.) (hereinafter referred to as Bonanno). A case which was inspired by the Government's concern that a Teamsters local remained under the Bonanno Organized Crime Family's domination grew into a lawsuit seeking divestiture of the Family's control of several legitimate businesses and restraints on its illegal activities through a variety of equitable and legal remedies.

The United States in Bonanno attained a Consent Order in October 1987 forcing the leadership of the International Brotherhood of Teamsters Local 814 Van Drivers, Packers and Furniture Handlers, Warehousemen's and Appliance Home Delivery Union (Local 814) to resign and providing for a court-appointed trustee to preside over union affairs. The Consent Order was a major step towards returning the local to its rank and file. The overwhelming power of the Bonanno Family, however, persisted on other fronts while Bonanno was being litigated.

Although RICO contemplates this type of civil suit, our experiences in litigating the Bonanno action suggest that certain legislative changes should be made to assure that RICO can satisfy the goals set forth by Congress in 1970. Amendments to restrict or narrow RICO, as explained below, would have the effect of hindering our efforts and the efforts of prosecutorial offices throughout the country in attacking criminal enterprises. Rather than allowing attacks on RICO to succeed, Congress instead should strenthen the statute to combat the harm caused by organized crime's control over all types of legitimate and illegitimate businesses nationwide.

I. INTRODUCTION

This Statement focuses on the Bonanno action and what we believe is the goal for civil RICO. This section is divided into three parts. Part A explains the Mafia Family structure, with a focus on the Bonanno Organized Crime Family and why its activities are so devastating to the American economic and societal structure. Part B sets forth the statutory structure and legislative purpose of civil RICO. Part C describes the Bonanno civil RICO action which was fashioned in the spirit and according to the letter of the civil RICO statute. Section II sets forth suggestions for amending civil RICO to clarify its application to restraining organized crime's control over legitimate and illegitimate businesses. Section III outlines some of the amendments to civil RICO that Congress recently has considered and comments on the potential effect of some of those proposed amendments.

A. THE FAMILY

The Bonanno Organized Crime Family of La Cosa Nostra is one of New York's five major organized crime families. It has grown from a relatively small bootlegging and loansharking operation in the 1930's and 40's into a sophisticated enterprise which currently controls multi-million dollar illegal activities and owns or control~~s~~ legitimate businesses throughout the New York area and elsewhere.

One of the most influential and violent organized crime families in the United States, the Bonanno Family is connected to a nationwide crime organization popularly known as the Mafia or La Cosa Nostra. Like all other Mafia families, the Bonanno Family has an organizational structure which is centuries old.

The "Boss" is the head of the Family. The Boss has a second-in-command, known as an "Underboss," who does the Boss's business when the Boss is in prison, or "away." A "Consigliere" or "Streetboss" resolves intra-Family disputes. The Bonanno Family conducts its operations through several groups known as "crews." Each crew is comprised of several "made" members, who also are referred to as "soldiers," "wiseguys" or "buttons." At the head of each crew is a "Capo." The soldiers report to and act in the name of the Capo. "Associates," sometimes referred to as "connected people," also act on behalf of the Capos. Associates are not made members, often because they are not of Italian decent or have not yet proved their loyalty and worth to the Family.

Operating through the general structure described above, the Bonanno Family has prospered during the past fifty years. As alleged in Bonanno, the Bonanno Family has engaged in a multitude of illegal activities, including, inter alia, gambling; narcotics; theft from interstate commerce; extortion and usury, which has involved not only traditional loan sharking but also extortion emanating from the Bonanno Family's infiltration of Local 814; labor racketeering, mainly involving the Local 814 corruption, including pay-offs, contract bid-rigging, attempted murder and schemes to preclude union dissidents from working; and interference with commerce.

Many of those illegal acts have resulted in criminal convictions. In most instances, however, only the active participants have been punished for the crimes and the proceeds from the illegal activities generally have not been forfeited or divested. In most instances, even after criminal convictions, the business of the Family has proceeded without interruption. For example, the Bonannos continued to control and corrupt Local 814 even after convictions in 1986 of Bonanno members who were accused of illegally controlling that union local.

B. STATUTORY SCHEME

Congress enacted RICO to "provid[e] enhanced sanctions and new remedies" in order "to seek the eradication of organized crime in the United States . . . ." 84 Stat. 922-23 (1970). Congress concluded that

". . . organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens . . . ." Id.

The legislative history of RICO is replete with Congressional findings about the extent of organized crime's infiltration of society. Congress' statement of findings and purpose in enacting Pub. L. 91-452, 84 Stat. 922, is set forth in § 1 of the Act. Congress declared:

> It is the purpose of this Act to seek the eradication of organized crime in the United States . . . by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

Id. at 923.

Congress emphasized the need to fashion new remedies to destroy organized crime:

> What is needed here . . . are new approaches that will deal not only with individuals, but also with the economic base through which those individuals constitute such a serious threat to the economic well-being of the Nation. In short, an attack must be made on their source of economic power itself, and the attack must take place on all available fronts.

S. Rep. No. 617, 91st Cong., 1st Sess. 79 (1969). See also 116 Cong. Rec. 819 (1970) (remarks by Sen. Scott) (need for "new legal weapons"); id. at 591-92 (remarks by Sen. McClellan) (need for new penal remedies). Indeed, Congress clearly tailored RICO to combat organized crime's infiltration into the Nation's economy, including organized crime's infiltration of labor organizations. S. Rep. at 78-79.

Congress made clear that the explicit RICO remedies were not exclusive, id. at 81, and specifically made provisions for treble civil damage awards, 18 U.S.C. § 1964(c), and divestiture of property involved in racketeering activities, 18 U.S.C. § 1964(a).

C. THE BONANNO LAWSUIT

The Bonanno civil RICO prosecution focused both on remedying past injustices and preventing future injustices by the Bonnano Family through four categories of relief: (1) equitable relief to halt ongoing illegalities and to prevent future illegalities; (2) equitable relief, including appointing a trustee, to disengage Local 814 from the Bonanno Family's entrenched grasp; (3) divestiture and forfeiture of properties and businesses which either were being used in illegal activities or were purchased with the proceeds from illegal activities, and placement of those businesses into receivership, and (4) monetary relief to remedy certain corrupt activities involving Local 814.

Specifically, the United States sought injunctive relief to:

> -divest the Bonanno Family from its stranglehold on Teamsters Local 814 by replacing the Executive Board with a trustee, pendente lite, and enjoin the Local 814 officials who either were associated with the Bonanno Family or stood idly by while the union had been infiltrated and corrupted from holding any position in the union. A recent criminal prosecution led to the convictions of several Bonanno Family members, including the Boss and Underboss, and several union officials, for their corrupt activities;
>
> -place into receivership four properties where the Bonanno Family conducted million dollar gambling games pending divestiture of the properties;
>
> -place into receivership certain legitimate businesses, including three hotels, a restaurant and a taxi company, pending divestiture from certain Bonanno Family members who purchased and operated the businesses with proceeds from illegal activities;
>
> -enjoin a variety of activities which allowed the Bonanno Family to reap enormous financial windfalls, including gambling, loansharking, extortion and other racketeering activities; and
>
> -enjoin the defendants from continuing to conduct this destructive enterprise by prohibiting them from making new Bonanno Family members or associating together for any business or commercial purpose for a set period of time.

In addition, the United States sought both under RICO and the False Claims Act, 31 U.S.C. § 3729, monetary damages of approximately one million dollars from the defendants stemming from a bid rigging scheme engineered through Local 814 which involved certain federal agency moves, including the Federal Bureau of Investigation's relocation in Manhattan from 59th Street to 26 Federal Plaza. One form of this relief was accomplished early in the Bonanno litigation -- a Trustee was appointed by the Court pursuant to a Consent Order dated October 8, 1987, to operate, in conjunction with a Government-approved interim Executive Board, the affairs of the union.

The United States' action against the Bonanno Family alleged ten different enterprises, of three different types, engaging in racketeering activity. The first type of enterprise was comprised of a "group of individuals associated in fact." See Title 18, United States Code, Section 1962(c). Of this type, the Bonanno action named four different enterprises. The Bonanno Organized Crime Family was an example of this type of enterprise. The Bonanno Family is comprised of approximately 90 individuals who associate together in a hierarchical structure to undertake efficiently and effectively the commission of a variety of criminal activities. The members of the top echelon of the structure -- all of whom were named as individual defendants -- associated together solely in order to conduct the Bonanno Family's affairs. The activities of the Family are, without exception, criminal in nature or designed to perpetuate the scope and effectiveness of the Family's criminal activities. Thus, pursuant to 18 U.S.C. § 1961(4), the Bonanno Family was alleged to be an enterprise. The affairs of the Bonanno Family were conducted by the defendants in a manner prohibited by 18 U.S.C. § 1962(c) and 18 U.S.C. § 1962(d).

Another enterprise named in Bonanno consisting of an association in fact, similar to the Bonanno Organized Crime Family although more limited in scope, involved a subcategory of the Bonanno Family's illegal activities -- the Family's various gambling businesses. Certain of the Bonanno Family's various illegal gambling operations were conducted from four different sites. Each location was run by a different Bonanno Capo and, in its own right, each comprised a separate enterprise consisting of a group of individuals associated in fact to operate, share in the profits of and participate in the gambling business. Individuals involved with each such enterprise used money gathered from illegal activities, including gambling, to operate the gambling businesses, in violation of 18 U.S.C. § 1962(a). In addition, relief from those operations was sought pursuant to 18 U.S.C. § 1962(c), as well as 18 U.S.C. § 1962(d), and the four properties were seized by the United States pursuant to the federal gambling statute.

A second type of enterprise was a corporation or legal entity. 18 U.S.C. § 1961(4). In the Bonanno action, the United States alleged the existence of five separate corporate enterprises. Three of these were New Jersey hotels owned or operated by one of the individually named defendants, which were purchased and operated and maintained with the proceeds of racketeering activities. The fourth corporation was a restaurant, owned, operated and maintained by one of the individually named defendants with the proceeds from racketeering activities. The fifth corporation was a taxicab company, which is owned, operated and controlled by another of the individually named defendants and was purchased and operated and maintained with proceeds from the Bonanno Family's racketeering activities.

The United States alleged that the acquisition of interests in the above corporate enterprises was accomplished in violation of 18 U.S.C. § 1962(a). Accordingly, the United States sought to impose liability on the individually named defendants for this conduct and to divest them of their interests in these enterprises. The United States also sought this relief for violations of 18 U.S.C. § 1962(c) and 18 U.S.C. § 1962(d). In addition, the United States alleged that both the restaurant and the taxicab company were acquired and maintained by certain of the individuals named as defendants through a pattern of racketeering activity and the collection of unlawful debt, and therefore the United States also sought divestiture and injunctive relief pursuant to 18 U.S.C. § 1962(b).

The third type of enterprise involved in the Bonanno action was a union. As was established by the Eastern District of New York Organized Crime Strike Force in United States v. Rastelli, 85 Cr. 354 (E.D.N.Y.), Local 814, comprised of the Teamster's Local, the Executive Board of Local 814, and the Employee Benefit Funds, including the pension fund, the welfare fund and the annuity fund, was an enterprise as defined in 18 U.S.C. § 1961(4). That enterprise likewise was conducted through a pattern of racketeering activity, in a manner prohibited by 18 U.S.C. § 1962(c).

The action was commenced by a motion for a preliminary injunction. Discovery started within days of filing the action. Within three months of filing the action, a Consent Decree allowed a court-appointed trustee to replace a union leadership which had been dominated by the Bonanno Family. Settlements with some of the defendants have now resulted in providing the United States with significant equitable restraints, enjoining the defendants from several seemingly legitimate businesses, restraining the defendants from conducting any business - -

legitimate and otherwise - - with each other, and assuring a mob free Teamsters Local 814. Indeed, in a supervised election in February 1989, the rank and file voted for a new Executive Board, casting almost three times as many votes as in any other Local 814 election. In addition, the some of the defendants have made a significant monetary settlement. Finally, the Second Circuit Court of Appeals is considering a related, and vital, issue: whether the Government can recover money damages under RICO.

II. REVIEWING CIVIL RICO

A judge sitting in equity is called upon to exercise wisdom and innovation to fashion appropriate remedies to right a particular wrong. Congress defined the types of wrongs to which RICO is directed. See 18 U.S.C. § 1962. These are the types of wrongs which the Bonanno action sought to remedy.

Stripping the Bonanno Family of legitimate businesses used to launder, hide and replenish illicit profits is exactly what civil RICO is meant to do. Such relief is damaging to the strength of the Family. A multi-million dollar taxi company, purchased with proceeds from racketeering activities taken over through racketeering activities and then operated and controlled through racketeering activities, can and should under RICO be removed from the Family's control. Social clubs which serve as fronts for million dollar gambling operations also can and should be divested from organized crime entities. Evidence of pervasive criminal activities also can and should serve as a basis for an order enjoining certain people from associating together for business purposes because these people consistently have demonstrated that, for them, all business is illegal or tainted business.

While these are the types of remedies permitted by RICO to fight effectively against the operations of organized crime -- whether La Cosa Nostra or other organized crime -- courts have yet to deal with many questions relating to the statute's breadth and reach. Of particular importance in civil RICO is halting the control of organized crime over legitimate businesses and the growth of organized crimes' illegal businesses. The goal set forth in RICO -- to eradicate ongoing and corrupt activities by organized groups -- is now being accomplished only because RICO was drafted in a manner which allows courts the freedom necessary to harnass the powers of such groups. Certain amendments, aimed particularly at halting organized criminal groups from controlling and corrupting businesses, are needed to help make the original intent of civil RICO successful in the courts. Congress now should assure that RICO remains the effective tool that Congress intended to create in 1970 by providing statutory answers to questions being raised about the statute's interpretation.

THE ISSUES

1. Remedies

A. Divestment/Disgorgement

Congress quite clearly distinguished between remedies available in criminal and civil actions. Criminal prosecution can result in a forfeiture penalty. Civil violations can be remedied by divestment of any interest in an enterprise or by restrictions on future activities and investments. The question left open was what happens to the proceeds after a civil RICO defendant is forced to divest a business or property.

The statute currently provides no explicit answer to the question, "Where do the divested funds go?" It would frustrate RICO's goals to enable prosecutors to divest defendants of business interests illegally obtained or obtained with tainted proceeds, but then to compel the Government to return the profits from a forced sale to the defendants. Without restrictions on where money from a judicial sale would go, there would, in effect, be little disincentive for a Mafiosa to invest tainted proceeds in a legitimate business or take control of a business through a pattern of racketeering activity. Indeed, a divestiture order without disgorgement would unjustly enrich a defendant and merely result in relocation of ill-gotten investment monies. The key to breaking criminal conduct is depriving racketeers of their tainted proceeds.

Guidance for a solution is found in basic principles of equity and a litany of securities fraud cases. Free to fashion a remedy appropriate to particular facts, a court can issue a remedial disgorgement order. This was the relief requested and the holding in Bonanno. The court in Bonanno became the first to address the issue, holding that money from divestment sales can be used to establish a fund for victims of the racketeers, and that claims for those monies can be made for a limited period of time. After the time period expires, the money then can be placed into the United States Treasury. Congress should explicity codify the Bonanno court's decision in order to avoid future difficulties and inconsistencies.

As part of such an amendment, a national victims' fund should be established to receive funds from RICO divestment orders. The United States sought the establishment of such a fund in Bonanno. The Court upheld the appropriateness of this remedy. Title 28, United States Code, Section 2041, et seq., sets forth the procedure for establishing such a fund. Funds in disgorgement cases are paid into a court's registry where the money is held for five years. During that time, claims to the fund by victims of the wrongful activity that led to the disgorgement are made and the claims are evaluated according to criteria established by the court. After five years, any remaining money can be transferred into the United States Treasury. For RICO purposes, the statute should be amended to provide that, after five years, any remaining money be used to fund court-appointed trustees and other law enforcement efforts aimed at combating organized crime. Moreover, when the United States settles civil RICO actions, there should be a legislatively established method for using any monetary recovery to strengthen our law enforcement efforts. Without such legislation, the Government is without an option to placing the money into the general Treasury.

Such a disgorgement provision would not transform civil RICO into a criminal statute. Disgorgement is a civil remedy used to prevent unjust enrichment, not a punitive measure to punish a defendant or a device to reward a victim. In light of the extraordinary measure taken by Congress to include a construction clause dictating a liberal interpretation of RICO's remedial provisions, divestment and disgorgement are wholly appropriate and necessary.

In enacting RICO Congress made clear that it did not intend to limit the equitable relief available to the courts. Hence, this proposed remedy most likely is permitted by RICO currently, and now there is judicial precedent for disgorgement under RICO. However, unless Congress explicitly approves such relief, the scope of RICO's remedial provisions is open to litigation and time-consuming challenges. This is a gap which Congress now should close.

B. Powers Of A Court-Appointed Trustee

One of the most successful uses thus far of RICO has been the appointment by courts of trustees to operate mob-dominated labor unions. The judicial power to make such appointments is settled, but the power of the trustee after taking control of a union -- or of any other business or entity -- needs clarification.

A trustee should have the same powers as the United States or a private party to recoup monetary damages suffered by the union or its rank and file members. In this regard, a trustee should be able to sue for treble damages based upon injuries suffered by the people or entities the trustee is appointed to protect.

Most courts have now held that private litigants cannot sue for equitable relief under civil RICO. A proposal to allow such suits was made and rejected at the time RICO was enacted. Notwithstanding how the courts or Congress eventually define the scope of private suits, Congress should grant court-appointed trustees broad statutory authority to sue for equitable relief. After being placed into a union, a trustee is best situated to understand what relief is necessary, for example, in order to halt mob infiltration into a union or to enforce employer contributions into a pension fund. The trustee thus should be empowered to use this inside knowledge to seek relief appropriate for a racketeer influenced union.

In Bonanno, we negotiated for a court-appointed Trustee to run Local 814, in tandem with representatives of the union's rank and file. After gaining the resignation of the union's Executive Board and Trustees, the United States Attorney's Office and Federal Bureau of Investigation interviewed several people who voiced an interest in becoming involved with the union's administration. Two people were selected to join the court-appointed Trustee on an interim Executive Board and two people on an interim Board of Trustees. The court-appointed Trustee and the interim boards worked together on day-to-day affairs of the union, and the

Trustee alone was responsible for overseeing legal and accounting efforts to recoup lost worker contributions, to assure that hiring practices were regulated and free of corruption, and to educate the workers about their union. This structure was directed towards wiping out corruption while assuring that the workers were once again allowed an opportunity to be a part of the operation of their union. In the recent union elections, supervised by the Trustee and Department of Labor, a record turnout of the rank and file elected new leadership, choosing almost equally from two different slates. The election seemingly marks a return to democratic elections at Local 814.

Without broad equitable powers given to the Trustee to accomplish his tasks, the Government's effort regarding Local 814 would have been severely hampered. Congress must assure that a Trustee, once positioned in a corrupt union, has the authority to accomplish what we strove for in Local 814: to return to the rank and file a union which had been taken away from them by corrupt forces.

C. Restitution

The civil remedies provision, while clearly not exclusive, provides illustrations of equitable relief which a court can order, such as divestiture and injunctions.

Perhaps because there has been little civil RICO litigation regarding the breadth of the remedies provision, the issue has not been resolved whether a court can order restitution to victims of racketeering activities when the United States is plaintiff. Challenges against such relief are based upon the theory that Congress did not provide the United States with parens patriae powers.

There is no good reason not to permit a court sitting in equity to grant restitution when the United States is a civil RICO plaintiff. For instance, in the Bonanno case, if the United States proves that the defendants who control the taxicab company have extorted the drivers, and divestiture of the company is ordered, a court also should allow the extorted victims to recover an amount commensurate with the defendants' unjust enrichment without having to commence a new lawsuit.

Consequently, along with the illustrative examples of equitable relief available under civil RICO, Congress should include the recovery of restitution for victims of racketeering activities so that the statutory availability of this relief is clear.

D. Monetary Damages

RICO provides that "[a]ny person injured in his business or property . . . may sue . . . and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee." 18 U.S.C. § 1964(c). The court in Bonanno ruled that this treble damage provision does not apply to suits by the United States, even when the United States is monetarily damaged while engaging in commercial activity. In Bonanno, the United States was the victim of a bid-rigging scheme orchestrated by Bonanno Family members using their control of Local 814, and the United States lost over $ 300,000 as a result of the scheme.

The United States has appealed that ruling and the issue is pending before the United States Court of Appeals for the Second Circuit. The treble damage recovery serves both as a deterrent and as an incentive to bring suit, and there is no reason to deny to the United States this remedy. Congress should immediately amend RICO to clarify that the United States, when monetarily injured, can invoke RICO's damage provision.

2. Statute Of Limitations

The centerpiece of RICO is the statute's aim at ongoing corrupt enterprises. Few civil causes of action contain that component of continuity, and the applicable statute of limitations accrual rules for RICO must recognize the statute's unique character.

In most civil actions, the time period for recovering from a statutory violation commences to run when an injury occurs, that is, when the wrongful act actually occurs. However, a significant part of RICO relief is equitable, and equitable actions are governed only by such principles as laches, not statute of limitations. With regard to legal relief allowed by RICO, such as treble damage awards, the statute is silent about the length of time allowed to bring such a claim and the proper method for calculating the time period.

The Supreme Court adopted a four-year limitations period for private civil RICO actions, at least for those actions premised in wrongful termination or agency-principal actions. The four-year time period as applied to an action aimed at disengaging organized crime's influence over the economy is unrealistically short. Some of the problem stems from the fact that many civil RICO actions of this type are brought after a related criminal prosecution is completed. From investigation until indictment and trial, a criminal case easily can take over four years. A civil action which is delayed in order to avoid overlap or conflict with a criminal action could be rendered untimely. Accordingly, Congress should draft a statute of limitations for civil RICO which at a minimum is six years. At the very least, Congress explicitly should adopt for civil RICO the tolling provision of the Clayton Act, 15 U.S.C. § 16(i), which suspends the running of the statutute of limitations during the pendency of a proceeding brought by the United States for a private or State action which is based in whole or in part on any matter complained of in the government proceeding.

In fact, more important than the length of the limitation period, the question of when the period starts to run must be clarified to distinguish RICO actions from run-of-the-mill civil actions such as breach of contract. For instance, one theory pleaded in the Bonanno lawsuit sought relief against the Bonanno Family members and associates employed by or associated with the Bonanno Family Enterprise for violations of section 1962(d), conspiring to violate the substantive provisions of RICO. The Bonanno conspiracy was formed before RICO was even enacted, and many of the illegal acts in furtherance of the conspiracy were committed more than four years before the Bonanno action was filed.

The problem with adopting an accrual rule which does not recognize the continuity and conspiracy elements of RICO is demonstrated by one of the forms of relief requested in Bonanno. During the course of several years, until approximately 1983, through the Bonanno Family Enterprise's infiltration and corruption of Local 814, bids on moving contracts were rigged. Several contracts involved federal government moves, including the Federal Bureau of Investigation's move from 59th Street to 26 Federal Plaza in Manhattan. The FBI move occured more than four years ago, and the bid rigging ended more than four years ago. However, the section 1962(d) conspiracy -- the conspiracy among Bonanno Family members and associates to commit racketeering acts -- continues today. The question was raised whether the monetary relief sought from the bid rigging scheme was time-barred, absent application of general equitable tolling principles, because the particular FBI move giving rise to the relief occurred more than four years ago, or whether, because the conspiracy continues today, all damages caused by this ongoing conspiracy still could be recovered. That question is not answered in Bonanno because the court struck the Government's request for monetary damages under RICO. The answer, however, should be that the relief requested was timely because the conspiracy continued within the time limitation period.

Fortunately in the Bonanno case the action was timely under an equitable tolling principle because the defendants fraudulently concealed the bid rigging scheme. However, in order to achieve RICO's goals of harnessing ongoing racketeering activities, Congress now should clarify how to measure the applicable time limitation period. In this regard, for all actions brought pursuant to section 1962(d), the limitation period should not commence until the last overt act by any of the co-conspirators is committed.

A similar gap in the RICO legislation should be closed regarding accrual of the statutory time period for prosecuting substantive violations. For example, consider the following hypothetical. A claim for relief is brought under section 1962(c), with an organized crime family as the enterprise. A particular defendant, let us say, became an organized crime member in 1972 and was prosecuted and convicted of several racketeering predicates in 1980. That defendant remains an organized crime member, and in fact became a Capo in 1986. However, suit is brought in 1987 and the defendant has committed no overt predicate act in the last four years. Under section 1962(d), the defendant is a member of the conspiracy and, not having withdrawn, remains liable for his co-conspirators' acts. Similarly, under section 1962(c), the defendant should be liable for substantive RICO violations because he is a member of the organized crime enterprise, committed two or more predicate acts, and, as a Capo, continues to reap the profits from its illegal activities. Congress, therefore, should make it clear that for substantive violations, any defendant who is proved to be a member of the enterprise is responsible for the substantive violations committed by people associated with that enterprise so long as the defendant has not withdrawn, notwithstanding whether the person's last overt act is within the relavant time limitation period. Under RICO's substantive provisions, all members of the enterprise thereby would be liable in a damages action brought within the statutory time period of the racketeering act.

If Congress were not willing to accept the above suggestion, it should at least codify a recent Third Circuit decision clarifying accrual rules for civil RICO. If a complaint is filed within the applicable time period -- currently four years but preferrably six years of the last injury or the last predicate act committed by the defendant -- the plaintiff then should be able to recover for injuries caused by other predicate acts by the defendant that occur outside the applicable time period but that are part of the same pattern of racketeering. The time limitation period should commence when plaintiff knew or should have known about the last injury or the last predicate act.

3. MISCELLANEOUS

A. Criminal Rule 6(e)

Under Federal Rule of Criminal Procedure 6(e), government attorneys prosecuting a civil case generally may not automatically obtain disclosure of grand jury materials for use in a civil case. Government attorneys must apply to a court and show a "particularized need" to review grand jury material. Such a rule theoretically is necessary to assure grand jury secrecy and place normal civil limitations on the Government's discovery and investigative powers.

Under RICO, however, there is a clear overlap of civil and criminal prosecutions. Allowing civil attorneys to review grand jury information without making a Rule 6(e) application would serve the public interest by avoiding needless duplication among Government attorneys without jeopardizing the grand jury system. Indeed, the Supreme Court recently has recognized that the disclosure of grand jury material -- the primary evil against which Rule 6(e) protects -- is of far less concern in the case of disclosure of grand jury materials to Government civil attorneys.

Government attorneys should be able to share in and benefit from the experience and expertise of other Government attorneys, and thereby provide more efficienct and effective enforcement of federal statutes. Because review of grand jury information might result in a decision not to proceed with a civil RICO action, a fact also recently acknowledged by the Supreme Court, disclosure could also have the effect of saving the Government, potential defendants and witnesses significant time and expense resulting from normal civil discovery.

Accordingly, Congress should create an exception to Federal Rule of Criminal Procedure 6(e) and allow Government attorneys to share grand jury information when contemplating or prosecuting a civil RICO action.

B. Bank Fraud As A Predicate Offense

Bank fraud is defined in Title 18, United States Code, Section 1344, and is the gravamen of a significant amount of racketeering activity. It is not, however, currently a RICO predicate. RICO predicates already include wire and mail fraud and money laundering violations. Bank fraud is no less a racketeering type activity than these violations. The Eastern District of New York, in fact, currently is prosecuting a bank fraud civil RICO while using mail and wire fraud as predicates. There is no reason to force such jurisprudential gymnastics. Bank fraud is a racketeering predicate in spirit, and should be so included in the provision enumerating RICO racketeering activity in 18 U.S.C. § 1961.

C. Federal Rules of Civil Procedure

Challenges were leveled by defense counsel in the Bonanno case to the use of basic federal civil procedure rules in civil RICO. Such challenges were based on the unsubstantiated premise that civil RICO is "quasi-criminal," and thus authors of the challenge argued, for example, for heightened specificity in pleading requirements.

Such an argument ignored a fundamental difference between civil and criminal prosecution. Due to the absence of a grand jury, certain pertinent facts are learned by a civil RICO plaintiff after starting a lawsuit. This would be the case even if Rule 6(e) were modified, as suggested above, to allow Government attorneys in civil RICO actions to have access to past grand jury proceedings. Pleading with criminal particularity, therefore, often is not possible. Also, civil defendants are not harmed by a lack of specificity in pleadings. In all civil litigation, broad discovery rules allow the parties to learn an opponent's case before trial. This thus negates any requirement that an entire case, including evidence, be pleaded when an action is filed.

Courts do not seem predisposed to accept the argument that civil RICO complaints should be pleaded with greater than usual specificity. Still, civil RICO is a civil action, and Congress should add a provision to section 1964 making clear that normal civil procedural rules are applicable.

III. AMENDMENTS RECENTLY CONSIDERED BY CONGRESS

Congress recently considered a series of proposed amendments almost uniformly focused on minimizing the effect of RICO. Rather than considering how potential defendants could most effectively avoid the reach of a statute designed to halt ongoing corrupt activity, Congress instead should be insuring that the lofty yet vital goals embodied in RICO are achieved. While admittedly there has been an influx of RICO actions by private litigants because of the treble damages provision, any abuse of the statute can be regulated by the courts. Only those commercial actions based upon a continuing scheme can survive motions to dismiss. Courts can and do treat inappropriate RICO actions like any other meritless civil action -- the cases are dismissed. However, if Congress wished to control RICO actions, a provision could be added awarding costs and attorneys' fees to prevailing parties in baseless actions. Congress should not destroy a truly effective and important statute at the whim of a defense bar that is now realizing RICO's vast potential. The following are comments about proposals recently considered by Congress.

A. Proposals To Limit Private Actions

RICO is an important statute in fighting both traditional organized crime by La Cosa Nostra and organized, concerted and ongoing corrupt activities by equally vexatious racketeers who may wear business suits rather than Mafia garb. Many of the recent proposals were based on the unsubstantiated assumption that a mobster running a taxi company is more destructive than a Wall Street broker running a scam operation out of a fancy trading house.

One such proposal reflecting this theorem would have had Congress require that private RICO actions be premised on a past criminal conviction of the potential defendant. The Government quite clearly does not have the resources to combat all racketeering activity. There is nothing improper in making statutory provisions for private parties to protect themselves against continuing corrupt schemes. Permitting RICO actions only when the Government has convinced a jury that a defendant is guilty beyond a reasonable doubt of an enumerated act would in effect preclude most victims of get-rich-quick schemes or of unscrupulous brokers churning stocks from resorting to RICO.

Congress should leave intact the ability of private parties to protect themselves from ongoing or concerted racketeering activities. The protection of would-be defendants should not be a force in convincing Congress that well-dressed racketeers or tricksters warrant more concern than their targets.

2. Treble Damage Awards

A treble damage award is a strong disincentive to racketeers to continue victimizing innocent people by statutorily defined racketeering activities. Proposals to limit the awarding of treble damages only to the Government would minimize the effect of RICO, again in order to protect the would-be defendants at the expense of the victim. The disincentive created by the spectre of treble damage awards is important and should be preserved. Moreover, as discussed above, the United States should explicitly be given the right to recover treble the amount of any monetary damages it suffers in its commercial capacity.

3. Changing The Name

A racketeering act is a racketeering act, whether committed by a Mafiosa or a white collar predator. The statute accurately is directed towards divesting corrupt people from legitimate businesses, and to rescue "racketeer influenced" businesses from people or entities organized together to act in a concerted and unlawful manner. The name fits, and the statute should bear it.

Dated: Brooklyn, New York
February 13, 1989

Association for Union Democracy, Inc.
YWCA Building • 30 Third Avenue • Brooklyn, N.Y. 11217 • (718) 855-6650

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Senate Permanent Subcommittee
on Investigations

EXHIBIT # 31

March 7,1989

Mr. Sam Nunn,Chairman
Senate Permanent Subcommittee on Investigations
Washington,DC 20510-6250

Dear Mr. Nunn:

This will reply to your letter to me dated March 3:

We appreciate the opportunity of submitting the enclosed statement for the record on the application of RICO in the effort to eradicate organized crime from unions.

This statement was authorized at the most recent meeting of the AUD Board of Directors.

Sincerely yours,

Herman Benson

Herman Benson, Secretary Treasurer

Please note that the new Executive Director of the Association for Union Democracy is Susan Jennik.

Established 1969. The only national, non-profit organization devoted solely to advancing the principles and practices of internal democracy in the U.S. labor movement. Publisher of *Union Democracy Review*.

The government's RICO suit against the Teamsters

A statement by the Association for Union Democracy

The government's RICO suit against the Teamsters Union and its officials presents at last the possibility, but by no means the certainty, of breaking the power of organized crime over the union. The Association for Union Democracy stands firmly for a democratic labor movement controlled by union members and free of government domination. In this instance, however, the real choice is, not between some perfect union democracy and government domination, but between domination by racketeers and government intervention that can make possible a strengthening of union democracy. From this standpoint, the RICO suit and the remedies sought by the government are a regrettable necessity, a lesser evil.

The effort is long overdue, for the Teamsters union occupies a special position in the labor movement; it has been the victimized prey of organized crime more extensively and over a longer period than almost any other American union.

The infiltration of a major union by racketeers is of particular concern to the Association for Union Democracy. We view the labor movement, not only as an essential defender of the rights and standard of living of working people, but as one of the great forces for democracy and social progress. Mob control debases a union, diverts it from its legitimate goals, and undermines membership control by the most brutal methods: beating, stolen elections, intimidation, blacklisting, even murder. The eradication of racketeering and the defense of union democracy are closely interconnected aims. AUD devotes special attention to the protection of the rights of unionists who are battling against corruption, because a cleaner and more democratic labor movement is a stronger and more effective movement.

In its suit, the government seeks an unprecedented degree of control over an international union, even to the point of asking for a temporary court-appointed trusteeship. Such a move is permissible here, not as a normal response to a more or less normal problem, but as an exceptional attempt to deal with the extraordinary problems posed inside the Teamsters union. The government's case is based in part on earlier convictions of Teamster officials, and in some respects the charges correspond closely to what is already public knowledge. If the government proves its charges in court, we will be confronted with so extreme a penetration of a union by racketeers that nothing short of drastic government intervention can counteract it.

The labor movement is accustomed to the involvement of government agencies and the courts in union-related affairs. Unions, of course, support federal regulation of hours, wages, and safety on the job. Union officials go to court against one another. They sue their own members to collect fines and dues; they seek court sanction to impose international union trusteeships over locals. They use the services of the National Labor Relations Board. And when the labor movement failed to protect members' rights in their unions, government action under the LMRDA was required to give unionists the democratic tools to control their own unions. In this instance, an even more extensive government intervention is proposed because of the magnitude of organized corruption in the union and the inability of the labor movement to cope with it.

Misgivings

The scope of the authority over the union that the government seeks is so broad that many good unionists and civil libertarians have become uneasy. We can understand their misgivings: the record of the previous administration was so hostile to the needs of organized labor that unionists are bound to suspect the motives of any government representatives who would pursue a suit against a union. While we do not dismiss these concerns as farfetched, it would be erroneous to interpret the RICO suit against the Teamsters as part of a drive against unions. Actually, the suit appears to be part of a more general campaign against corruption in the country.

In recent years, there has been a growing concern among responsible public leaders that corruption is corroding national life and weakening the country. An extensive law enforcement campaign has led to investigations, federal indictments, and convictions in many fields: in politics, in defense procurement, in business, in organized crime. As part of that campaign against corruption in the nation, the Department of Justice has indicted labor racketeers and has taken civil action to reorganize several mob-dominated unions to rid them of racket control. We welcome such actions as a helpful first step toward eradicating crime in unions and restoring them to membership control.

The real danger

Government intervention in union affairs in any form is bound to be worrisome to those who fear the danger of an anti-labor bias. But in this case, the real danger is quite different. Teamster officials wield powerful political clout. They have had enormous influence in the Republican Party under Nixon and Reagan. They were among the few labor leaders who supported George Bush for president. Some 250 Congressmen, Democrats and Republicans, liberals and conservatives alike, have joined as signators to a statement criticizing the Department of Justice suit. Candidates for the presidential nomination in both parties joined Teamsters at rallies protesting the suit. In this respect we are reminded of the words of the President's Commission on Organized Crime:

"When corrupt union leaders . . . are seen, in person or through the media, joining hands and breaking bread with the important political candidates and leaders of the country, these images convey a message to union members about the consequences of organized crime's influence. They graphically demonstrate to the membership that political leaders are beholden to the person who dominates and controls their union."

The real danger is that the Department of Justice, bowing to political pressures, will back off and reach a settlement with the Teamster officials that makes cosmetic changes but leaves a corrupt system intact.

The aim of the RICO suit

Rudolph Giuliani, former U.S. Attorney, defined the aim of the suit as follows:

"The government requests court oversight only for so long as necessary to eliminate organized crime's influence over the Teamsters, to put permanent reforms into place, and to restore control of the Teamsters to the many honest working men and women of the union."

We share that aim. If achieved, it will give enormous encouragement to the forces for decency and democracy in the labor movement. But we do not underestimate the difficulties.

We in the Association for Union Democracy have been working with reformers in many unions, some infiltrated by organized crime, for some thirty years. This experience has taught us that creating institutions to strengthen union democracy, should be, from the very first day of any court oversight, the principle instrument for reforming the union. In this spirit, we offer various suggestions to increase the possibility of success.

RICO suit: continued

Experience with local trusteeships

Civil RICO suits by the federal government have led to the appointment of trustees or monitors by federal courts to supervise the affairs of several locals: Teamsters Local 560 in New Jersey, the Roofers in Philadelphia, and the Cement Workers and Teamsters Local 814 in New York City. In these situations, the courts' representatives have been endowed with varying degrees of authority. In Local 560, a court-appointed trustee had full power to run the union; in other cases, the court representative had limited powers of veto and oversight while some of the former officials continued to conduct the unions' affairs.

Those who oppose the government's RICO suits argue that it is enough for the Department of Justice to prosecute individuals guilty of crimes and send them to jail upon conviction rather than impose controls over a union. However, where organized crime has fastened its hold, it is not sufficient to act against corrupt individuals; it is essential to move against the criminal organization. The mob can readily retain control by replacing one of its agents with another. The problem is to destroy the corrupt mob organization and destroy its hold on unions. Such is the expressed and legitimate objective of the imposition of court-selected monitors.

At this point, the experience of the existing trusteeships is too limited to draw up a final balance sheet of their effectiveness; but certain preliminary lessons are already indicated:

Democracy

No trusteeship—or other form of court intervention—can last indefinitely. If court control is to be more than a momentary inconvenience to the old gang and is to have a lasting effect on the quality of union life, the central aim of the court should be to restore or create a democratic atmosphere in the union, to encourage members to speak out on issues, to run for office, to criticize officials—even the court-appointee—and, when members are dissatisfied, to form caucuses and to run slates in union elections. The objective of a trustee should be to create the conditions for continued membership control once court intervention has ended.

Authority of the monitor

Organized crime dominates unions by creating a climate of fear to silence potential rivals and critics. When members feel that opposition to those in power can lead to serious reprisals, even murder, they are bound to remain passive. If members conclude that once a monitor leaves and the court surrenders jurisdiction, the racketeers will remain or return, no one is likely to risk speaking out. And, if while a court representative is actually installed, the old officialdom still retains posts of power, the wrong message is delivered.

It must be made clear, with the intervention of the court, that a new power is on the scene, one superior to the racketeers. A court monitor must be armed with enough power to shunt aside the old officials, to guarantee fair elections, to protect members from abuse by the old officials or by collusive employers. Those who are removed from office because they tolerated and facilitated racket control should be barred from holding any position in the union for an extended period.

Duration

The solidifying of racket control is usually the end of a long process marked by the intimidation of union members and collusion between crooked union officials and consenting employers. In Local 560, for example, the Provenzano family held sway for some 25 years. It is not possible to overcome the effects of a whole generation of intimidation in a short few months. If government intervention is to be effective, it requires time, in some cases even years, to offset the cumulative effects of racket domination.

The power of organized crime lies outside the labor movement. Therefore any effort to exorcise it faces special difficulties that do not exist in an "ordinary" corrupt or dictatorial officialdom. The Miners union, for example, was run by a murderous coterie headed by Tony Boyle, but not by organized crime. It sufficed to give miners certain basic democratic rights and to assure them a fair election; once defeated, the Boyle regime disappeared. But an officialdom intertwined with organized crime, with a base outside the union, is far more resistant to change. It requires more than a brief interlude of democracy to oust the mob.

Resources

It is absurd for a court to choose a monitor or trustee and expect him or her to fulfill serious responsibilities without providing substantial resources to do the job. Any court appointee needs considerable assistance . . . from auditors, insurance experts, editors, educators, organizers, business agents, attorneys, etc. Only part of this kind of staff can be financed from the union's treasury; for it would be self-defeating for the court to allow its intervention to appear as an extraordinarily heavy financial burden upon the union itself. If the government takes its responsibilities seriously and proposes to do more than go through empty motions, it must be ready to spend the required funds. The government can find funds by recouping moneys derived by the racketeers from their illegal acts.

The most important potential resource is people. Any kind of monitorship would have far greater possibilities of achieving its objectives if it could count upon the support and cooperation of union activists rather than depend merely upon law firms, arbitrators, etc.

If the courts are to be effective in the war against racketeering, there must be a supporting constituency developed within the labor movement, admittedly not easy to achieve but decisive in the long run.

Post-trusteeship period

The post-trusteeship period can be as decisive as the trusteeship period in shaping the nature of the union. All the agencies and powers of government must be alerted to protect membership rights: the Labor Department, the NLRB, the local police, federal law enforcement authorities, and the courts. If the agencies of government walk away once a trusteeship is ended, the likelihood of effecting permanent change is greatly reduced.

The international union

The government's RICO suit against the Teamsters union is the first attempt to confront labor racketeers by reorganizing an international union. Since it faces one of our largest unions, one whose size and diversity makes the task of reform qualitatively different and more difficult than for the local unions, the government's suit is more complex and any court-ordered reorganization would be even more so. But success of the suit could have a beneficial effect on the whole labor movement. Because of its power and strategic position, even while outside the AFL-CIO, the Teamsters officialdom had enormous influence in setting a moral—or immoral—tone in the labor movement. Now that it has been readmitted to the AFL-CIO, with important allies in the Federation, its influence for good or ill has been magnified.

All the problems implicit in court oversight of local unions are multiplied many times over in the case of a large international. No court or court appointee can run an international, but they can exercise whatever power is necessary to assure that a union is run democratically. It will take time to achieve the kind of objectives sought in this suit, so that the court must be ready to maintain jurisdiction for an extended period. The union has been dominated by corrupt elements for at least

30 years; the court cannot hope to eliminate such an influence overnight.

The success of the suit will be judged finally by the extent to which, during the period of court oversight, new leaders are encouraged to come forward and the rank and file membership stimulated to participate in union affairs. The aim during this period is to remove the *mob* from positions of power, not the *membership*. Teamster members should be drawn into running the union. The central aim during this period has to be to encourage union democracy so that when the court steps aside, the corrupt combination will be unable to return. Toward this end, we offer the following suggestions:

International union elections

Some unions elect international officers by vote of delegates at conventions and others by direct membership referendum. Under normal circumstances, there is a lot to be said for both methods, but conditions in the Teamsters union are not normal, especially in light of the oppressive acts enumerated in the RICO suit. The direct election of officers by the membership is the most effective means of breaking through any established bureaucratic or corrupt arrangements which keep an incumbent officialdom in power. To provide some assurances of a fair election and an honest count, an election ordered by the court should be supervised by the U.S. Department of Labor.

The sixteen international vice presidents, who are members of the international executive board, are now elected at large at conventions. Under that system any corrupt group which controls the convention can decide who holds every one of these posts. To encourage a broader democratic representation, vice presidents should be elected by region. These elections should be supervised by an impartial agency.

A large proportion of Teamster convention delegates are selected by virtue of their election to some local union office, sometimes years in advance of the convention and without consideration for issues that are likely to come before the convention To turn conventions into a more genuinely deliberative body, delegates should be elected specifically for that function and at a point fairly close to the opening of convention sessions.

Campaigning

To allow for a meaningful choice by voters, elections should be preceded by an extended period for electioneering by the candidates. Under supervision of the court, one or more union financed election discussion bulletins should be distributed to the membership with the right of all candidates to present their views. As a model, the court can use the special election supplements published by unions like the United Federation of Teachers, SEIU Local 250, the United Mine Workers, the Mail Handlers, and others.

In the period between elections, the union's magazine should be open to letters-to-the-editor which permit a free discussion of issues facing the union. The objective of these measures is not simply to stimulate discussion but also to legitimize it, to create an atmosphere in which criticism is not only permissible but is normal and desirable.

Protection of membership rights

Once the government encourages members to speak out, it must accept responsibility for protecting them against sanctions, not only in the union by union officials, but also on the job by employers. A court-appointed representative must have clear authority—and exercise it—to protect members from retaliatory fines, suspensions, blacklisting, discharge.

Teamster grievance procedure often culminates in the disposition of cases, not by impartial arbitration, but by joint union-employers panels. Here, grievances are not necessarily decided on the basis of merit but are routinely traded off on political grounds. The system lends itself to discrimination against grievants who are critical of union officials. To protect union democracy, a court representative must have the authority to protect dissenters from victimization in the grievance procedure.

Appeals

To guard against the illegal discipline of union members, to discourage frame-up charges and drumhead trials in locals, members need recourse to a genuinely impartial appeals procedure. None now exists in the union.

A court representative, or representatives—not the union officialdom—should be authorized to act as an appeals body inside the union. This appeals function could properly be subject to further appeal outside the union power structure to a Public Review Board selected by the court. (See section below on limitation to court control.)

Local unions

Reorganization of the international does not require or imply any reduction of the legitimate self-governing rights of the locals, and the government does not seek to interefere with those rights. Local unions should continue to enjoy their full autonomous rights under the union constitution subject only to the need to eradicate corruption and to assure membership rights.

However, local union elections should be carefully scrutinized to assure fair procedures, the right to campaign freely for office, and an honest count. In some locals of the Teamsters, it is especially necessary to safeguard all candidates and their active supporters against threats, intimidation, and even physical violence. For this reason, local election protests should be adjudicated and decided by representatives designated by the court, representatives who are familiar with this record and sensitive to it and not by the U.S. Labor Department whose performance in this respect is not encouraging.

Advisory committee

Between the time when the union is first reorganized and the point at which the election of a new leadership is set, a considerable time is bound to elapse. In the interim the court might authorize the appointment or election of a consultive committee with advisory powers. Officers who have been removed by the court should, of course, be ineligible to serve. The very process of selecting such a committee, and the discussion of union policy that can arise out of its deliberations, will permit a new alternative leadership to make itself known to the membership.

Limitations

These suggestions are tentative; they are intended not as a blueprint but mainly as a guide to the direction in which a court might move and as an indication of the areas of union life that need review.

Racket domination cannot be eliminated without extensive government intervention. No judge can possibly review day-to-day events; responsibility must be delegated. The court must be ready to give substantial authority to its representatives, power that can assure that the implementation of any plan is not tied up by interminable legal maneuvers. Nevertheless there are certain necessary limitations to the authority of any court appointee.

Political action policy

Political action is a subject that must necessarily remain outside the jurisdiction of the court. It would be improper for any judge or any court appointee to become involved in supporting or opposing candidates for political office. The RICO suit does not propose intervention in this area.

Collective bargaining

The judge is not a collective bargaining representative and so cannot be charged with the responsibility of controlling the negotiation or administration of contracts.

Local collective bargaining can readily continue as before the filing of the RICO suit. However, during the period of

RICO suit: continued

court oversight, before full authority is returned to a democratically elected leadership, the court will have to assure that there is some democratic mechanism for negotiating on a national scale whenever necessary.

National bargaining—for carhaulers, UPS workers, those covered by the Master Freight agreement—is under the aegis of the national office. At present the international president appoints bargaining committees for each group. But if the international officers are removed there will be a vacuum which the court itself cannot fill. But it can authorize a system like that used, for example, by the United Auto Workers in negotiating national contracts with the big companies. Local groups covered by the agreement elect delegates to national conferences; bargaining committees are elected at these conferences; and proposed agreements are submitted to the membership for approval.

Appeals

Since any court representative must necessarily exercise extensive powers, there are bound to be misgivings over how these powers are exercised. Provisions should be made to allow appeals from his or her decisions. It would be impractical for the judge to consider routine appeals. The court might appoint a Public Review Board, modeled upon the UAW Public Review Board, to act as the highest appeals body with the right to review, uphold, or overturn disputed decisions by lower union bodies or even by the court representative. Like the UAW board, it should be composed of public leaders known for their pro-labor sympathies and their dedication to civil liberties.

However, once the union comes under court supervision, the old officialdom is likely to try to sabotage and discredit the work of any monitor. There could be a stream of dilatory and trivial appeals to a Public Review Board aimed at tying the hands of the court's representative. In cases where delay in implementing decisions would undermine the proper functioning of the union, the decisions of the representatives should take effect pending the outcome of an appeal.

Can it succeed?

With the RICO suit against the Teamsters, we enter uncharted territory. No court has ever undertaken to reorganize an international union. The difficulties will be unprecedented, and compounded because the court will face the hostility of a powerful section of the labor officialdom.

With little experience to count upon, the court will surely make some errors, and some of its decisions will be controversial, perhaps even wrong. But we remember that we do not face the alternatives of a union perfectly run by good unionists or one imperfectly supervised by a court. The real choice is between racket domination or a court supervision that can open the way to membership control over a union which serves their interests. From the standpoint of union democracy, the choice is clear.

Will the RICO suit, followed by a period of court oversight, eradicate racketeer domination and return the union to its proper place among the more democratic unions in the United States? There is no guarantee that there will be enough continuing support from government agencies, from the public, or from within the labor movement to assure success. But it is imperative to make the attempt and to do everything possible to make it successful; because the alternative—continued passivity in the face of organized crime infiltration—is disastrous, not only for the labor movement but for American democracy.

Addendum: The battle against corruption in the labor movement

The infiltration of some major unions by racketeers and organized crime remains one of the most serious unresolved problems of our labor movement.

In the early fifties, even before joining with the CIO, the American Federation of Labor, under George Meany's leadership, expelled the International Longshoremen's Association for corruption. When the AFL and CIO merged in 1955, Walter Reuther and Meany gave high priority to the battle against corruption in unions and agreed, as one basis for unity, that the new federation would adopt constitutional provisions and take organizational measures against crooks. And it did.

Among the "objects and principles" enunciated in the AFL-CIO constitution is the need "To protect the labor movement from any and all corrupt influnces. . . ."; and to help implement that principle the constitution established a Committee on Ethical Practices. Within the next three years, after hearings before the Ethical Practices Committee, the Teamsters and other unions were expelled on charges of corruption. However, after that one burst of enforcement, the drive against corruption was abandoned and forgotten.

By now, the current leadership of the American labor movement, and of the major international unions, have backed away. It is now more than thirty years since the AFL-CIO dropped the effort to enforce its own Ethical Practices Codes. In that time, the AFL-CIO has done nothing to eliminate corruption from its ranks. The readmission of the Teamsters was explicit evidence that the federation has no intention of resuming the enforcement of its own constitutional requirements for action against corrupt elements. Its moral support of Teamster officials in their battle with the Department of Justice signifies that AFL-CIO policy is now not simply passivity in the face of corruption but has become an obstacle in the war on racketeers in labor.

A majority of labor's leaders would surely like to eradicate corruption from unions. The tragedy is that they seem so demoralized by the decline of the labor movement, so paralyzed by the need to survive, that they grasp at straws. They welcome Teamsters back into the AFL-CIO in the hope of unifying the labor movement and strengthening its political power. The irony is that the Teamsters officialdom gains respectability, increases its own political clout, and then uses these advantages to undercut the rest of the labor movement by supporting George Bush for president.

In the absence of action by the top echelons of the labor movement, the battle against corruption has been left to various rank and file movements. The most effective and most enduring has been the reform movement in the Teamsters union. The efforts of these groups to strengthen democracy and restore decency in their unions, especially TDU and the Teamsters Rank and File Educational and Defense Fund, deserve the support of all those who seek a stronger labor movement as a force for civil liberties in America.

No one can bestow a clean democratic union upon workers as a charitable gift from above. If a union is to remain democratic and free of corruption, the membership must be ready to take control and replace any crooked officialdom with a legitimate leadership. However, where organized crime has taken over and where opposition to it involves serious risk, we cannot demand that union members alone, without assistance, undertake to clean out the racketeers. Under such conditions, unionists need help, and they have the right to expect that help from within the labor movement, from the public, and from governmental authorities.

In short, the war on organized crime in unions demands resources beyond the capacity of rank and file unionists. It requires action by government. The government cannot and should not run unions; but it does have the responsibility, where racketeers are entrenched, to do what is necessary to drive them out and to restore union democracy so that union members can freely run their own union. ■

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 32

JOINT STATEMENT OF THOMAS MADERA, PRESIDENT OF THE DISTRICT COUNCIL OF THE CEMENT AND CONCRETE WORKERS, LABORERS INTERNATIONAL UNION OF NORTH AMERICA, AND ANTHONY NAPOLITANO, PRESIDENT OF LOCAL 6A, CEMENT AND CONCRETE WORKERS, LABORERS INTERNATIONAL UNION OF NORTH AMERICA BEFORE THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS, UNITED STATES SENATE

May 8, 1989

On behalf of Local 6A and the District Council of Cement and Concrete Workers, Laborers International Union of North America, we are pleased to submit the following statement to this Subcommittee which is considering the government's use of the civil provisions of the Racketeer Influenced and Corrupt Organizations Act ("Rico") (18 U.S.C. §§ 1961, *et seq.*) to appoint trustees for labor unions and other business organizations.

Since April 6, 1987, both Local 6A and the District Council have been monitored by a court appointed trustee who was installed pursuant to a consent judgment between the unions and the United States settling a civil Rico action brought by the government in the Southern District of New York. *United States v. Local 6A, et al.*, 86 Civ. 4819 (VLB) (S.D.N.Y., filed June 19, 1986). We hope that our experience will provide a useful perspective for the Subcommittee as it considers the delicate and important issue of how to accommodate the public's interest in eliminating labor corruption and organized labor's interest in preserving its independence and democratic ideals.

We oppose the use -- especially the indiscriminate use -- of Rico's amorphous civil provisions to impose trusteeships on labor unions on the ground that such stewardships are inconsistent with first amendment rights guaranteeing freedom of association and represent a dangerous expansion of governmental authority which is antithetical to our democratic principles. We are equally convinced that existing federal criminal and labor laws provide adequate alternatives for removing corrupt leadership from unions.

We also agree with Mr. Kirkland of the A.F. of L., C.I.O. and Mr. McCarthy of the Teamsters that if trustees are to be appointed under Rico's civil provisions, amendatory legislation should provide that such an extreme remedy should be used sparingly, if at all, and then only as a measure of last resort in circumstances of proven pervasive and systemic corruption within the union. In those few instances where a trusteeship is necessary, the trustee's term of office should be brief. His authority should be clearly defined and sharply circumscribed to deal with proven specific abuses and not some vague general mandate "to clean up" the Union over some indefinite period of time. A trusteeship should be an interim measure of brief duration designed to insure prompt, free and open elections for new union leadership.

Our experience in two years under the scrutiny of a court appointed trustee convinces us that trusteeships of any sort are serious government intrusions into labor independence and are inimical to labor democracy. Although we recognize that so-called mob dominated and controlled labor unions represent a serious threat to labor democracy, and, finally, to our system of free enterprise, we are convinced that casual resort to civil remedies designed to permit the government to take over and administer labor organizations under whatever guise, for even ostensibly beneficial reasons, is equally dangerous as a matter of fundamental democratic principle and is contrary to constitutional guarantees of freedom of association.

Because they obliterate self-governance, government initiated trusteeships are no more appropriate for labor organizations than they are for governmental entities, religious groups or political parties. In that sense, government controlled or dominated unions are as antithetical to the commonweal as mob controlled or dominated unions. Our experience teaches us that, however able and well-intentioned, the trustee is alien to the culture of organized labor; he is not freely chosen by those whose affairs he is called upon to manage; he shares no common experience with the membership; he is unfamiliar with the day to day operations of the union and is ignorant of the needs and aspirations of its members; he is not answerable to the union rank and file. In short, the trustee has no constituency. He is regarded, at best, as an interloper and, more commonly, resented as a "cop" -- not surprising since trustees are installed at the government's insistence without regard to the wishes of the union members.

The trustee is regarded not as a friend but as an adversary -- a symbol of oppression. Only recently the rank and file of Local 560 concluded elections in which they overwhelmingly elected a slate of candidates self-styled "Teamsters for Liberty," the group most opposed to the trustee. In our own elections, held shortly after the trustee was appointed, and under his close supervision, union membership returned existing leadership to office in uncontested elections.

Notwithstanding this obvious hostility and natural distrust toward a trusteeship, the powers typically invested in the trustee by courts have been significant. On the one hand, in the unique circumstances presented with Local 560, the trustee actually assumed the powers of the Local's executive board in conducting the day to day affairs of the union. In our own case the trustee's mandate admittedly is more limited and his role is confined to monitoring union operations by duly elected officers. In actuality, however, the trustee's authority at the District Council and Local 6A is considerable. Under certain circumstances, the trustee -- whose term runs for 3 years -- may remove any officer, supervisor, agent or employee of the Local or District Council from office. He also may veto any expenditure.

The trustee also has investigative powers -- which he has used liberally -- and during his tenure is authorized to dispense information about union affairs to the FBI and the Department of Justice. Under the terms of the settlement, the trustee has the authority to hire employees, assistants and experts to assist him in his function. In the two years since his appointment, the District Council and the Local have spent some $300,000 in fees for the trustee, his law firm, the executive administrator, outside accountants and experts -- a staggering amount in light of the union's delicate financial situation.

For the past two years, the trustee, his counsel or executive administrator routinely have visited various job sites and union offices to meet with officers and members. The trustee or his designee has attended general membership and executive board meetings at both the District Council and Local 6A. He retained independent accountants, at the union's expense, to review their financial records although there was never a claim by the government of any financial irregularities. The trustee or his designee routinely reviews all shop steward reports and member complaints. The trustee must approve all expenditures, including routine daily expenditures. He also reviews salaries and benefits received by officers of Local 6A and the District Council to determine whether they are reasonable and routinely must approve any increases in officer or employee compensation.

The trustee's exercise of his prerogatives has generally proceeded smoothly and differences with union officers which arise from time to time are usually resolved amicably through discussion. Those discussions, nonetheless, have occupied many hours, diverting leadership's attention from more important business matters.

Thus, although the relationship with the trustee and his representatives has been amicable, our ability to administer the unions in the rough and tumble world of New York's construction industry has been diminished. Not surprisingly, the trustee, though scrupulous and consummately professional, has remained an outsider -- unable to obtain the loyalty and support of the rank and file membership. However laudatory its goals, the trusteeship has been costly and has contributed little to improving the lot of the union members: He has secured no additional benefits from employers and, as the Trustee has told this Subcommittee, he has uncovered no evidence of corruption within the District Council or Local 6A. All in all, the trusteeship has had a profoundly negative effect on the union. To compound matters, unemployment in the construction industry in New York is up, revenues from dues check offs are down and the financial future for both the District Council and Local 6A remains bleak.

We agree with the statements of Messrs. Kirkland and McCarthy that Rico has been indiscriminately used to impose trustees on unions and that the statute should be amended to preclude such a drastic and undemocratic result. Because of its obvious impact on union members, if Rico is to be applied to impose trusteeships -- even trusteeships limited in scope -- a trustee should not be appointed unless and until the government satisfies a court that no less intrusive means exist for removing corrupt influences.

In its suit against the District Council and Local 6A, the government sought, as it has in each of its Civil Rico actions against a union, the immediate and the wholesale ouster of all elected officers, the majority of which had no criminal record, were never accused of any crime and against whom there was no evidence of wrongdoing. The government's case was based on evidence that one of the named defendants, the former President of the Executive Board of the District Council who once had been field representative and Vice-President of Local 6A, had been convicted of extortion and racketeering and sentenced to a long term of imprisonment. The government also claimed -- on the basis of mostly inadmissible hearsay -- that five other members of the District Council's and Local 6A's executive boards had committed extortion. One of those five, the then President of the District Council, had been acquitted of the extortion charges and no charges were ever brought against the remaining four.

The government did not seek first to prosecute the union leadership for wrongdoing and then to use the criminal convictions to debar those convicted leaders from union office. There was no history of pervasive or systemic corruption within the District Council or Local 6A. Indeed, the convicted leader was the only union official ever to be convicted of a crime in connection with his office and he had resigned over a year before the lawsuit was brought.

The government, using Rico's amorphous provisions, sought to impose a trusteeship on the District Council and Local 6A principally on the rather tenuous theory that none of the then union officers had taken any steps to prevent corrupt influences from gaining control over the District Council and Local 6A. In addition, it argued that the District Council's decision to award its convicted former leader a generous severance package was evidence of continued domination of the union by forces of corruption. The government sought this drastic relief on an expedited basis arguing that an evidentiary hearing was unnecessary and that a trustee should be appointed immediately pending the outcome of the litigation. When the union retained two well-known law firms to defend against this government blitzkrieg, the government challenged the action as a racketeering act and sought to preclude the unions from using their resources to hire legal counsel to defend themselves and their officers.

This, we submit, is the concept of collective institutional guilt referred to by Mr. Jacobs in his statements to this Subcommittee. The operative principle underlying all criminal laws is to punish individual wrongdoers for their wrongs. Rico carries that fundamentally sound notion one step further and seeks, where possible, to strip the wrongdoer of the fruits of his crime. The "major purpose" of Rico is to help block the criminal predations of organized crime upon legitimate business. United States v. Turkette, 452 U.S. 576, 591 (1981). In this sense, using Rico to establish union trusteeships shoots far wide of its mark: With a trustee's appointment it is the union members who suffer the immediate loss of their valued right to manage their own affairs and who are forced to subsidize the activities of a stranger they did not choose and probably do not want.

Certainly, Congress never intended such a result and Rico itself does not expressly provide such a remedy. Indeed, using Rico's "blank slate" to impose a union trusteeship contravenes established federal labor policy which seeks to promote union democracy from within the union itself. Our labor laws generally secure for union members the right to govern their own union, set their own policies and select their own leaders. These are not idle principles, haphazardly realized; they are the ideals that inform all our democratic institutions and the matrix of union democracy hammered out by Congress over the past 100 year. The great mischief of Rico, consistently ignored by the government in its constant efforts to devise new and ever more novel applications of the statute, is that its amorphous provisions spawn this sort of dangerous overreaching. In the instance of labor organizations, the indiscriminate use of the statute threatens the fundamental principles and policies of federal labor law. It is this phenomenon that has led the Supreme Court to recognize that Rico is "evolving into something quite different from the original conception of its enactors." Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 500 (1985).

Of course, there is nothing wrong in using Rico criminally -- or any of the labor racketeering laws -- to bring corrupt union officials to justice, remove them from office, and then bar them from returning. In that situation, Rico is used in a way that is consistent with its underlying philosophy and the principles of individualized justice. It hardly follows, however, that Rico should also be used in a way that indiscriminately impacts on the rights of innocent third parties. For that reason, it is important that Rico's civil provisions be clarified by Congress either to eliminate union trusteeships or sharply curtail their use. We feel that the government has the resources to fight union corruption without resorting to extraordinary measures such as union trusteeships.

If Congress should determine that existing federal criminal and labor laws do not adequately address the problem of corruption in our unions, then the solution should be found in legislation specifically designed to protect the interests of union members as well as eliminate corrupt influences. Any legislation authorizing the appointment of a trustee should require that before a union trustee can be appointed, the government must establish to a court's satisfaction, after a full evidentiary hearing, that union corruption is truly systemic and that no less intrusive means exist to remedy the problem. Rico should be amended to provide that a trustee may be appointed for a limited time only and his authority should be limited to securing and supervising free and open elections by union members.

We also agree with Mr. Anderson, the trustee appointed to monitor the District Council and Local 6A, and Mr. Stier, the court appointed trustee of Local 560, that the enormous cost of funding the trustee should not be borne by union treasuries. In four of the Rico union trusteeships, the costs of the trusteeship have been borne entirely by the unions. Assessing the cost of the trustee on the union rank and file is profoundly unfair and, in the end, counterproductive. As Mr. Stier perceptively observes, the political forces within the union most resistant to change invariably will seize upon the cost of the trusteeship as an argument against it. In our case, the costs of the trusteeship have depleted the treasury of the District Council to the point of insolvency and have seriously taxed the financial resources of Local 6A. If these resources were available to the Local and its District Council they could be used to fund better benefits and establish programs for leadership development, general safety and health, as well as education.

We endorse Mr. McCarthy's second recommendation to the Subcommittee that the law should be clarified so that a trusteeship, in any form, will not be imposed on a union unless and until there is a full and final evidentiary hearing at which the government demonstrates, by clear and convincing evidence, that corrupt influences in the union cannot be eliminated by less intrusive means. As we understand the law, this standard of least drastic alternatives is commonly applied in situations involving first amendment rights such as the right to freedom of association, the bedrock of the organized labor movement in the United States.

Our own case is paradigmatic of the Justice Department's abuse of the broad remedies provided by Rico, one of the most dramatic of which allows a federal court to enter restraining orders or "take such other action as it deems appropriate." 18 U.S.C. § 1964(b). In our case, as it has in each of the actions seeking to impose union trusteeship, the government initially asked the court to suspend immediately all elected officers of the union and to appoint a trustee to assume day to day control of the union pending the outcome of the litigation prior to trial and without the benefit of an evidentiary hearing. The government argued that, unlike private litigants who seek such an extraordinary remedy, when it seeks a preliminary injunction, it need not demonstrate irreparable harm.

The problem with this approach, especially in light of the government's claimed diminished evidentiary burden, is that it occasionally happens that the Department of Justice does not prevail on the merits of its claim. In the Fulton Fishmarket Case, the government also wanted the immediate removal of all the officers of Local 359 on the ground that they were controlled by organized crime. After trial, the court found that the government failed to meet its burden and that the union officials could continue in office. In the case against the District Council and Local 6A, much of the government's proof was hearsay, usually inadmissible at trial on general issues in federal courts. Indeed, crediting all of the government's "evidence" whatever its form, it is hardly clear that the government finally could have shown the kind of pervasive and systemic corruption that would entitle it to the extraordinary relief it sought.

In the instance of union trusteeships, especially because the first amendment rights of union members are implicated, the government should not enjoy the benefit of a relaxed evidentiary burden but should be required to demonstrate by clear and convincing evidence that no means less drastic than suspending the right of self-governance are available to rid the unions of corrupt influences. In most cases in which the government has sought the appointment of an interim union trustee, courts prudently have rejected such requests. In our own case, Judge Broderick, in response to a request for a preliminary evidentiary hearing, agreed to schedule a limited hearing to give the union defendants an opportunity to rebut government claims of continued wrongdoing. Before the hearing, the District Council and Local 6A entered into a consent decree appointing a trustee for a period of 3 years.

Unfortunately, while courts agree that an evidentiary hearing normally should precede the granting of interim relief, there is authority that a hearing may not be necessary. In one government initiated civil Rico action against a restaurant in Manhattan, the district court appointed an interim receiver without a hearing on the basis of various defendants' invocation of the fifth amendment privilege against self-incrimination during discovery. While such an approach may be justifiable in situations involving private businesses, when a union is involved, the compelling first amendment rights of its members should mandate a hearing and Rico should be amended to provide expressly for a full evidentiary hearing on the merits before a trustee is approved by the court.

Another glaring abuse in the Justice Department's use of Rico to impose trusteeships on unions which Messrs. Kirkland and McCarthy urge be remedied by legislation is the government's attack on union payment of attorney's fees to defend itself and its officers. For example, in our case, and in the Teamster's case, the government claimed that the use of union funds to defend the lawsuit was inimical to the interests of the unions. We agree that Rico should be amended to insure that it is not construed to prohibit unions from using their own funds to pay legitimate counsel fees. The idea that it is illegal for a union to pay attorney's fees to defend against the loss of the right of self-governance is both wrongheaded and dangerous. It presupposes the truth of the allegations which are the subject of the litigation. Indeed, we submit that it is the obligation of union leadership not to surrender the right of self-governance. Yet, by suggesting that the union should not be permitted to use its own funds to defend itself and those through whom it presumptively acts, the government would require immediate and automatic capitulation long before there has been a judicial determination of wrongdoing.

The idea that a labor organization may forfeit the right to defend itself against a governmental onslaught is just another example of the insidious effects of Rico's undefined, indeed indefinable, contours. It is also a doomsday machine used to bludgeon unions into settling these types of litigation. Simple justice, to say nothing of a right so fundamental as the right of freedom of association requires that the law be clarified to insure that labor organizations will enjoy adequate legal representation.

The past three years have been difficult times for the District Council and Local 6A. Since assuming office, we have done our best to improve our union and to see to it that the union is free of corruption. We also have sought to remain faithful to our democratic principles. It is our hope that this Subcommittee will give serious consideration to the proposals advanced by other unionists which we echo here. Unions can only serve their members in the absence of corruption; they serve them best when they are free.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 33

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARINGS ON THE USE OF "RICO"
TO REFORM LABOR UNIONS
STATEMENT OF TEAMSTERS FOR A DEMOCRATIC UNION

Teamsters for a Democratic Union ("TDU"), a nationwide group of rank-and-file Teamsters working to reform and democratize this country's largest labor union, supports the settlement reached in the RICO lawsuit filed by the Justice Department against the International Brotherhood of Teamsters to the extent that it gives the 1.6 million workers who make up the union the right to vote for the officials who will represent them.

Since its founding in 1976, TDU has advocated one-member, one-vote elections of international officers as the most expedient way to root corruption out of the Teamsters union and to make the highest-paid union officials in the world accountable to the members that they serve.

TDU endorses the use of the Racketeer Influenced and Corrupt Organizations Act, not to increase government intrusion and interference in the operation of labor unions, but only as a tool for facilitating the self-governance of unions as envisioned by the Landrum-Griffin Act. The direct election of the top officers of the Teamsters union by the membership, as well as the election of delegates to a Convention in order to nominate candidates for this election, present a workable and democratic solution to the corruption and non-representation problems that have historically plagued this union. The settlement is far superior to the remedy originally sought by the government's lawsuit, which was to place control of the union in the hands of a government trustee for an indefinite period of time. Testimony presented at these hearings confirms that government trusteeships are less-than-perfect solutions to the problem of corruption in labor unions. But the RICO statute can also be used in connection with another solution:

From the outset of the government's lawsuit, TDU opposed government control of the Teamsters Union in favor of the more democratic solution of having the members elect their officials. Free and democratic, government-supervised elections cleaned up the corruption-plagued United Mine Workers Union in the 1970s, and there is no reason to assume that elections will not solve the problems facing the Teamsters Union as well.

The success of the settlement, however, depends on how well it is enforced and imp~~lemented~~, and TDU does have reservations about the implementation of some aspects of the settlement thus far. For instance, the most equitable method of electing the 16 International Vice Presidents would have been to divide the IBT membership into 16 regions, with 100,000 members in each region. Instead, the regions seem to have been gerrymandered by the union leadership in a way that will preserve the existing power structure. Some regions (the Central Conference, with 550,000 members, is the most glaring example) are so large that a challenger may find it impossible to unseat an established incumbent because of the recognition problems of huge campaign financing for travel, mailings and recognition.

Of course, the Independent Administrator, Investigations Officer, and Elections Officer provided for in the settlement will to a large extent determine its effectiveness. The signing of the settlement was only a beginning, and the government must continue to monitor situations in the union as they develop, and make a commitment to devote enough resources to any problems that might arise to ensure that the intent of the settlement is not thwarted. To underscore the need for continued government oversight of the problem, the President of the Teamsters Union and his General Counsel spoke at all five Teamster Conferences last week about the ease with which the union will be able to extricate itself from the terms of the settlement at the 1991 Convention. They explained to hundreds of union officials that the delegates to that Convention could simply vote down the amendments to the IBT Constitution that are contained in the settlement, thus returning to its traditional undemocratic way of selecting its officers and conducting union business with a minimum of accountability to the dues-paying members.

Another troublesome aspect of the implementation of the settlement thus far has been the apparent disregard of both parties to the lawsuit to the wishes of the rank-and-file. For instance, when the settlement proposal was being reviewed at the court hearing, counsel for TDU asked the judge to give TDU a few days to review the settlement and offer input on behalf of rank-and-file union members. The judge told TDU counsel that TDU, an organization consisting entirely of rank-and-file union members, had no role in the case and therefore no right to review the settlement that directly affected the rights of 1.6 million workers, dues-paying members and tax-paying citizens. The court's remarks were especially disturbing in light of RICO's mandate that innocent parties should be protected.

Despite these reservations, TDU is optimistic that the settlement reached in the RICO case has the best potential of any mechanism that has yet been tried to give the power in the

Teamsters union back where it belongs -- not to the United States government, not to organized crime, and not to a self-appointed hierarchy of officials that use the dues of the members for personal enrichment rather than for the rights of working people-- but to the Teamster members themselves. TDU hopes that its primary goal of rank-and-file control of the world's largest union will finally be achieved.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 34

STATEMENT SUBMITTED BY

ANGELO FOSCO, GENERAL PRESIDENT,
ON BEHALF OF THE LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA

BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
UNITED STATES SENATE,
for use at its hearings on

FEDERAL GOVERNMENT'S USE OF TRUSTEESHIPS
UNDER THE RICO STATUTE

Earlier this month your Permanent Subcommittee on Investigations held hearings entitled "Federal Government's Use of Trusteeships Under the RICO Statute." You there received testimony from several persons involved with these trusteeships.

One of those testifying at your hearing on April 6, 1989 was Eugene R. Anderson, the court-appointed trustee for the Cement & Concrete Workers District Council and its affiliated Cement & Concrete Workers Local 6A, each located in New York City, and each affiliated with the Laborers' International Union of North America. In his prepared and extemporaneous remarks before your Subcommittee, Mr. Anderson suggested that he encountered a lack of cooperation and rebuffs from the Laborers' International Union in response to his requests for assistance in discharging his duties. While the International Union does not question Mr. Anderson's good faith, integrity or competence, it is clear that his statement results from a misunderstanding of what actually transpired here, and we have a duty to clarify the record so that the Committee will understand the true role played by the International Union.

At the outset, we make two preliminary observations. First, the position of the Laborers' International Union is the same as that voiced by the AFL-CIO with respect to the use of civil provisions in the RICO statute to take control of labor unions. We endorse that position taken by the AFL-CIO and by a majority of Senators and Representatives in Congress considering this issue. Whether employed against unions, other legitimate voluntary associations, or publicly owned commercial enterprises, this dangerous and basically uncontrolled extension of Executive Branch control over private organizations is indeed the "antithesis of democracy" suggested by you at the hearings. And, you observed, this "antithesis of democracy" may in its operation produce a model that is hardly appropriate for a government that is anxious to instill democratic principles in Third World nations.

Second, the Laborers' International acknowledges that it had little first-hand information about the daily operations of the trusteeships administered by Mr. Anderson. When the civil litigation leading to those trusteeships began against Local 6A and the District Council, it was suggested that the Laborers' International intervene or otherwise support the defendants. Against those suggestions the International Union made a studied decision to remain neutral, and to not involve itself in the litigation while in progress. That decision remained firm. Thus, the International claims no information on the exact problems, discrete and general, which Mr. Anderson as trustee faced immediately after a settlement agreement to end that litigation thrust him into stewardship over Local 6A and the District Council. But, after Mr. Anderson assumed that position, there were communications initiated by Mr. Anderson and his representatives who called the Laborers' International Union and the AFL-CIO. With respect to its own contacts the Laborers' International Union is quite knowledgeable; its records, as well as recollections at the AFL-CIO, paint a very different picture from that drawn by Mr. Anderson appearing before your Subcommittee.

In his prepared statement submitted on April 6, 1989 to the Subcommittee, Mr. Anderson explained that the difficulties he experienced in running democracy at Local 6A and the District Council derived at the outset from the "very limited powers" he had from the court. Mr. Anderson emphasized that his difficulties were compounded by a chronic shortage of funds in the trusteed organizations. He added that these problems were aggravated by the unwillingness of the Laborers' International to assist him in administering the trusteeships. He thus wrote:

> In addition to inadequate resources and funding, I believe that any trusteeship would benefit if the resources of an *honest* and *cooperative* International were available in such fundamental, yet crucial, areas as union democracy, leadership development, safety training and other educational programs. My *efforts to obtain the assistance* of the Laborers' International Union in this

> regard were not fruitful. After a series of telephone conversations, it was clear that the leadership of the Laborers' International Union did not want to meet with me. Once rebuffed, I did not pursue the matter any further.

His extemporaneous remarks made during his appearance on April 6 reiterated that:

> We received, really, a rebuff from the International. I wanted to get assistance from the International Union to run campaigns on such things as how to instill democracy into the union. We went from the President of the International to the General Counsel, down to a lawyer on his staff, and finally decided that that was not fruitful.

These written statements and extemporaneous comments of Mr. Anderson simply do not reflect reality.

An accurate history of the cooperation offered and given by the Laborers' International Union to assist Mr. Anderson begins with a telephone call to Angelo Fosco, General President of the Laborers' International Union, shortly after the trusteeship was put in place. In accordance with standard policy at the International Union with respect to all calls from attorneys, this phone call was referred to the Laborers' Legal Department with instructions to respond and promise cooperation. Once the call was referred, Robert Connerton, General Counsel for the International Union, returned the call and spoke with an attorney, Robert Gaynor, an associate of the trustee.

In this first phone conversation, Mr. Gaynor explained his concerns and questions about union support for collective bargaining by Local 6A and the District Council while in trusteeship. Also, Mr. Gaynor asked questions and sought explanations about meanings, practices and policies behind provisions in the Union's Constitutions. Mr. Connerton answered these questions fully and indicated the willingness of the International to cooperate with the trustee. With respect to assistance in collective bargaining at Local 6A and the District Council, Mr. Connerton recalls offering support and active assistance from the Laborers' Regional Office in New York.

The call ended on an affirmative note, with Mr. Gaynor apparently satisfied with the responses he received. There was in this conversation no mention by Mr. Gaynor of any campaign to instill democracy at Local 6A or the District Council.

After this first conversation, the International Union relayed the substance of the conversation to the New York Laborers' Regional Office

Records at the Laborers' International Union disclose a second telephone call from Mr. Gaynor to Mr. Connerton, who was not in his office at the time. The next day, however, on April 23, 1987, Theodore Green, Associate General Counsel to the Laborers' International Union, returned the call. In that call returned by Mr. Green, Mr. Gaynor raised two issues. First, Mr. Gaynor reported that the trustee was concerned that his inexperience in construction-industry negotiations might inadvertently prejudice the rights of the Concrete Workers vis-a-vis employers and other trades in then current negotiations. Second, Mr. Gaynor sought information concerning the constitutional procedure for filling vacancies on the Executive Board and Negotiating Committee at the District Council. Once again, no mention was made of any proposal for a campaign to instill democracy at Local 6A. Discussion ensued on the points raised by Mr. Gaynor, and Mr. Green offered to make the Director of Jurisdiction at the International Union available to the trustee to assist him in properly defending the membership of Local 6A and the District Council. More generally, Mr. Green and Mr. Gaynor discussed the establishment of ongoing lines of communication between Mr. Anderson's office and the Legal Department or other agent of the International Union to assist the trustee in carrying out his duties. Thereafter, neither Mr. Gaynor nor any other representative of the trustee subsequently contacted the International Union Headquarters. But the record of support given or pledged to the trustee by the International Union does not end there.

Whether known or otherwise by the Trustee, the New York Regional Office of the International Union provided assistance to the Concrete Workers during its collective bargaining negotiations both directly and by enlisting the support of other Laborers affiliates in New York for their cause. This is well known to the Concrete Workers officers either appointed or approved by the Trustee. More important, throughout the entire course of the trusteeship until the present date, the Regional Office has been in constant communication with the officers either appointed or approved by the Trustee, in response to specific requests for assistance and equally important, in our judgment, the officers either appointed or approved by the Trustee have been invited to attend all meetings called by the International or its regional offices for their affiliates. The topics covered included collective bargaining, jurisdictional protection, health and safety, political and legislative action, staff leadership education, industry promotion and as best we know representatives of the Trustee attended all such functions.

In short, the trustee or his agents have not been rebuffed. The trustee has not been denigrated. In practice, the Union and its members have received the full and complete support of the International Union during this critical period.

One more area needs to be covered to demonstrate the depth of the International Union's commitment. Shortly after the trusteeships were established, the Laborers' International learned through the AFL-CIO that the trustee had decided to seek assistance from that organization in administering the trusteeships over Local 6A and the District Council particularly. Because Laborers' affiliates were to be discussed, the AFL-CIO sought advice from the Laborers' International concerning its views on meeting with the trustee. At the same time, the AFL-CIO probed the Laborers' International for its views on whether it was prepared to offer assistance to the trustee. As on previous occasions, the Laborers' International reiterated its willingness to play an active and positive role in assisting the trustee. In brief, the International Union agreed readily to the proposed discussion between the AFL-CIO and Mr. Anderson and reaffirmed its willingness to cooperate with him.

Discussions between the AFL-CIO and Mr. Anderson eventually took place in May 1987. At a meeting then, Secretary-Treasurer Tom Donohue and General Counsel Larry Gold, representing the AFL-CIO, relayed to Mr. Anderson the pledge of support from the Laborers' International, as given by its General President. As Mr. Gold of the AFL-CIO recollects, this pledge was also accompanied by specific assurances from the Laborers' International that it continued to regard both Cement & Concrete Workers Local 6A and its District Council as Laborers' affiliates in good standing, with a continuing right to the same assistance normally provided to all Laborers' affiliates upon their request.

According to the recollection of AFL-CIO representatives at the May 1987 meeting, Mr. Anderson also stated his need for a trade-union official of "impeccable credentials" to be at Local 6A to run its daily affairs. Mr. Donohue agreed to find nominees for this position, and Mr. Donohue then worked through James Gill, counsel to Mr. Anderson, to refer at least one name to Mr. Gill. As with past calls between Mr. Gaynor and counsel to the Laborers' International, this meeting between the AFL-CIO and Mr. Anderson ended on a positive note. And, as with the recollections of counsel to the Laborers' International, there is no recall by AFL-CIO representatives of any mention by the trustee of his intent to run a campaign to instill democracy in the trusteed unions.

Following that one meeting in May 1987 with AFL-CIO representatives and the subsequent referral, there were no further conversations or meetings by Mr. Anderson with the AFL-CIO, nor was there ever made known to the AFL-CIO the action taken by Mr. Anderson on the referral made to him. Indeed, after that single meeting in May 1987, there were no further contacts at all initiated by Mr. Anderson with the AFL-CIO.

From this history certain conclusions are fairly made. It is fair to conclude that substantial assistance over an extended period of time from a willing and cooperative International Union was in fact given to the trustee and his agents at Local 6A and the Concrete Workers District Council. And it is clear that this assistance was not delayed in delivery, not haphazardly given, and not unimportant in content; it addressed the precise areas of concern mentioned by the trustee and his representatives and it did not differ in kind or degree from assistance given to all Laborers' affiliates upon their request. Indeed, it may be fairly said that in its detail and frequency, the assistance given to Local 6A and the District Council while under trusteeship actually far surpassed advice and counseling given to other affiliates not in the unusual position of being run by a court-appointed administrator.

Although it may be suggested now that the Laborers' International Union or the AFL-CIO needed to be more "assertive" in dealings with Mr. Anderson, such hindsight is neither fair nor correct. Due regard must be taken for the multiple uncertainties attendant to this new and radical use of the civil provisions in the RICO statute to take control of labor organizations. There is no decisional law defining the relationship between a parent union and its affiliate being run under the authority of a court-appointed trustee. And, there is absolutely nothing in the civil provisions or legislative history of the RICO statute to provide guidance in this area. Given that vacuum of instructional precedent in dealing with these situations, an "assertive" approach could easily have been interpreted as meddlesome or obstructionist. Common sense, important always and particularly so when legal vagaries abound, dictates that a proper course for an international union to follow in dealing with a court-appointed trustee is to offer assistance, provide it if requested, and not seek to undermine or usurp the authority of the trustee. That was the exact course followed by the Laborers' International Union and the AFL-CIO in responding to Mr. Anderson and his representatives.

Obviously, there are no easy answers to questions concerning the role of an international union in its relationship and dealings with an affiliate under direct control of a federal district court. We believe, however, that the Laborers' International Union acted more than reasonably here. Despite what may have been said here, we propose to continue on this course.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 35

Statement of Joel R. Jacobson

My name is Joel R. Jacobson, and I live at 2 Kendall Avenue, in South Orange, New Jersey, 07079.

Because I was the first individual to be named by a United States District Court Judge to serve as a RICO court-appointed trustee in the takeover of Teamsters Local 560, in Union City, New Jersey In June,1986, I had hoped to be able testify, in person, before the Permanent Subcommittee on Investigations.

I believe that my activities as the very first court-appointed trustee, and the subsequent reaction of United States District Court Judge Harold A. Ackerman who appointed me, merit the attention of any Committee investigating the Government's use of the RICO statute.

It is my hope that, having been denied the opportunity to appear in person, this statement will appear in the transcript of the record of the hearings which were held on April 4, 6, and 12, 1989, and that the information contained herein will be brought to the attention of all the members of the Committee, and hopefully, the Congress.

In order for the Committee members to understand better the context in which I am offering this statement, perhaps, a word about my background may be in order.

With the exception of the time when I served as a member of the Cabinet of New Jersey Governor Brendan Byrne -- from April, 1974 to June, 1986, as President of the New Jersey Public Utilities Commission, later as the New Jersey Commissioner of Energy, and finally, as a member of the New Jersey Casino Control Commission -- I have been a trade union member and official since June of 1941.

During that period of time I have served as: (a) Executive Secretary of the Essex-West Hudson CIO Council, in Newark, New Jersey; (b) President of the New Jersey State CIO Council; (c) President of the New Jersey AFL-CIO Industrial Union Council, and ultimately, (d) Director of Political Action for the tri-state (New York, New Jersey and Pennsylvania) Region 9 of the United Automobile Workers (UAW);.

When United States District Court Judge Harold A. Ackerman named me as the court-appointed trustee for Teamsters Local 560 in June of 1986, he cited as evidence of my suitability for the job, my long record as a member and official of the American trade union movement.

I accepted the role of trustee for Teamsters Local 560 because over the years, I had been angered by the sordid activities in which Anthony (Tony Pro) Provenzano) had engaged, and by the harmful residue his masquerading as a trade unionist had visited upon the entire labor movement.

Accordingly, I was eager to play what was described as a meaningful role in demonstrating to the members of Local 560 that they deserved, and could be provided with, a stronger, more effective, cleaner union than that which "Tony Pro" and his followers had wrought.

It was, and still is, my conviction that in order to achieve victory in this effort, it would be necessary to provide the members of Local 560 with the opportunity to participate in a free and democratic election, and more important, where they would elect from within their own ranks, new officers dedicated to the concept of democratic, militant trade unionism.

To guarantee such a victory, the trustee had to discharge two obligations:

1. He had to win the confidence of the members of Local 560 by providing them with improved collective bargaining contracts, greater benefits, improved grievance machinery, more representative service, and a stronger and free voice in the affairs of the local; and

2. He had to develop from within the ranks of Local 560, a group of trade unionists who would be capable of capitalizing on the achievements of the trustee and who could be forged together into a slate of candidates which would defeat the deposed leadership in any local union election.

A number of veteran trade unionists from the United Automobile Workers, the International Union of Electrical Workers, and the International Ladies Garment Workers Union joined me in this effort and together we launched a massive program of reaching out and servicing the members.

This traditional program of sound, vigorous and intelligent unionism started to produce unprecedented benefits.

By the end of the first 7 months of the Local 560 trade union trusteeship, the following gains were recorded:

1. All individuals identified by the Court as part of the "Provenzano Group", including the five Provenzano daughters, and all of the former officers and business agents, had been removed from office.

2. A significant improvement in health and welfare benefits was achieved, featuring an increase of $50 in the monthly pension check.

3. The fees to legal counsel were renegotiated and reduced by more than one-third.

4. The fees paid to the investment managers of the pension and welfare funds' portfolios were renegotiated, producing an annual savings of over $700,000.

5. Local 560's retirees were provided with a virtually-free drug prescription program, plus the assumption by the Pension Plan of their 20% co-payment charge for Medicare bills.

6. New agreements signed for the "house" contracts -- as distinguished from the National Master Freight Agreement which had been negotiated by the International Union -- provided average annual wage increases over four per cent, significantly

7. The membership rolls for Local 560 increased by 26% during the first seven months of the trusteeship.

8. A vigorous approach to the processing of grievances by the trustee resulted in major victories for shop stewards and members who had been fired unjustly and who were reinstated with full seniority and back pay settlements in excess of $115,000.

9. In conjunction with the Rutgers University Labor Education Center, classes and seminars were set up for shop stewards to improve their performance in resolving grievances and assuring contract compliance. Frequent requests for expansion of the classes reflected the program's popular acceptance.

This record of accomplishment constituted the most extensive series of changes in the entire history of Local 560. The rank and file members of the local responded enthusiastically.

Within a period of a few months, this acceptance of the trade union trusteeship began to appear in more tangible form.

A petition campaign, started by the displaced officers to demand an end to the trusteeship, was quickly discontinued when members from terminals in all parts of the state refused to sign them. We received reports that many members had been seen tossing the petitions into the nearest garbage can.

Calculated in the currency with which unionists trade, the trustee was winning the confidence of Local 560's members.

Why, then, did the subsequent Local 560 election for officers end in such a disastrous defeat for the Government?

The election was lost because the tremendous gains recorded by the trade union trusteeship in its 10 months of activity were destroyed by Judge Ackerman when he fired the trade union trustee, and replaced him with the former Director of the New Jersey Office of Criminal Investigations.

The message sent to the rank-and-file members of Local 560 by Judge Ackerman was painfully clear.

In the parlance of the workingman and woman, the Judge had replaced a trade unionist with a cop.

It is my judgment that a RICO takeover of an American trade union can be successful only when the trustee is able to demonstrate that militant, democratic unionism better serves the interests of the members than the less noble brotherhood to which they have been prey for so long.

Judge Ackerman rejected that approach and appointed a new trustee, who launched an 18-month long campaign of interrogations, audits, depositions and investigations, all of which failed to unearth one iota of evidence to indict, no less, convict, any past or present member or officer of Local 560.

As a consequence of this monumental mis-judgment, in the eyes of the rank and file members, the deposed Local 560 officers were converted from inadequate local union leaders -- which the record of the trade unionist trustee had exposed -- into martyrs being hounded by a tyrannical government on a fishing expedition. The Government's disastrous defeat in the election was easily predictable. Victor Hugo's "Inspector Javert" would never win a local union election.

The decision to replace the trade union trustee with a cop trustee -- whose prosecutorial zeal failed to produce one iota of evidence leading to an indictment, no less a conviction of any present or past officer or member of Local 560 -- was a monumental blunder.

This failed atttempt to install a new leadership in Teamsters Local 560 will, henceforth, be accurately known as "Ackerman's Folly".

Perhaps, no incident throughout the entire 10 months of the trade union trusteeship reveals more accurately the reason for the Government's ultimate failure in this RICO takeover.

The incident was described in a magazine article I wrote for the March, 1988 issue of the "New Jersey Reporter", a publication of the Princeton-based Center for the Analysis of Public Issues.

Lane Kirkland, President of the AFL-CIO was kind enough to refer to and to include a copy of this article in the testimony he presented to this Committee on April 12, 1989.

When I refused to fire 400 *elected* shop stewards, among other individuals against whom there was neither evidence nor any allegations of any improper or illegal activities, Judge Ackerman exploded in anger, and red-faced, shouted at me, "When it comes to the members of Local 560, they are all guilty until proven innocent!"

The Government's faulty implementation of the RICO statute in its takeover of Teamsters Local 560, and in particular, the actions of Federal Judge Harold A. Ackerman, with his most peculiar interpretation of the constitutional rights of any one associated with local 560, explain the failure of the Local 560 takeover.

In his testimony before this Committee, Mr. Lane Kirkland, President of the AFL-CIO, delineated the objectives of the labor movement -- and I would suggest the duty of this Committee and the Government -- when he stated:

"What we seek is the continued strenuous prosecution of miscreants in a way that does not injure the innocent or do permanent damage to a free and independent trade union movement."

TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS
LOCAL UNION NO. 560
Affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America

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PETER GRANELLO
NUNZIO SPANO
JAMES BARTOLOMEO

Senate Permanent Subcommittee on Investigations

EXHIBIT # 36

April 10, 1989

Permanent Sub-Committee Investigation
100 Russel Senate Office Bldg.
Washington, D.C. 20510

ATTN: Senator Sam Nunn

Dear Mr. Nunn:

I am pleased to be part of your inquiry and respectfully submit my opinions regarding the government's trusteeship of Teamster Local 560 as a result of the RICO Law. I submit a brief summary of the Trusteeship to you on behalf of the Executive Board of Local 560 and the 560 membership.

For the most part, the members felt that fair and accurate representation had not been administered by the government appointed Business Agents while in office. Quite frankly, my newly appointed Business Agents, after considerable time and effort, have only recently been able to regain the trust of the membership.

Presently, serving as President of this Local, I am limited as to the executive powers I hold. For example, my right to appoint union representatives to sit on the 560 Benefit Funds Board of Trustees was taken away and is held by the government's Trustee. Normally, in accordance with Taft-Hartly, three Union Trustees and three Employer Trustees establish the six votes used to control Benefit Funds issues. Union representatives on the Benefit Funds Board of Trustees ensures proper representation of the Union members. The government Trustee exercises all three votes belonging to the membership of Local 560. Representation through the government's trustee has recently produced numerous cuts of benefits for the participants asserting a lack of money, while ironically, the Board of Trustees voted to give raises to the entire administrative staff of the Benefit Funds.

Another outstanding characteristic shown through this continued RICO Trusteeship, is the government's expectation that the Union pay the Trustee's fee without any itemized bill breaking down services. We feel that if the government wants to investigate, then concealed services rendered by the trustee should be paid by the Justice Dept. The Executive Board of the Local Union has an obligation to its dues paying members, and to pay a blind bill would be incompetent and irresponsible.

For nearly three years, the Judge allowed, through his appointed attorneys, abusive billing of the Union and Benefit Funds. For example, an administrator of the Benefit Funds wanted to purchase a union owned automobile. Before doing so, he requested legal advice from the appointed attorneys. This advice cost the Benefit Funds $1,500.00. We would welcome any investigation of these abusive legal fees and the administration of the Trustee period. The Sub-Committee is more than welcome to investigate why $577,366.00 was spent between January 1987 and December 1988 on professional fees, not to mention cases that were lost and mishandled. Perhaps most devastating of the Judge's Order is his granting of immunity to the Trustee and his attorneys such that the Local is prevented from bringing action to seek a remedy for these abuses.

Overall, we are sure the RICO Law was meant to be used as an instrument of "Justice". But. we openly invite you, Senator Nunn, to ask the membership of Local 560 if they felt that Justice was served to them and their families throughout this Trusteeship.

Respectfully submitted,

Daniel Sciarra, afl.

DANIEL SCIARRA
President
TEAMSTERS LOCAL UNION 560

DS:11

Faxed: 4-10-89 (202) 224-0072
Mailed Overnight Mail: 4-10-89

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Senate Permanent Subcommittee on Investigations

EXHIBIT # 37

April 10, 1989

Permanent Sub-Committee
100 Russel Senate Office Bldg.
Washington, D.C. 20510

Attn: Senator Sam Nunn

Dear Mr. Nunn:

I do not universally oppose the use of a Trusteeship to overlook one's Union, provided the majority of its members are deprived of democratic participation and want it. I believe every member of a Union or a voluntary organization should be given the opportunity to vote by secret-ballot to determine their own destiny. Such was not the case in Local 560. The fate of 560 was decided by 14 unknown government solicited and supported witnesses, hardly enough to be considered a majority of a Local Union of 8,000. These witnesses had a privilege granted to them by the government in the 560 case; they could not be cross-examined at trial by the attorneys of defense.

My intent is not to dispute that case, but I feel very disheartened that I was the first Union President ever removed from office. I am the only man ever to be barred from participating as a candidate in a Union election; such restriction having been placed upon me even though I have never been convicted of any crime or bad act against a member. I am popular with the membership because they believe I can do the job for them. Both the membership and I have been denied the right to fully participate in our Union. The government then tried to have me removed from an appointed job at the Union. The government claims I am some type of menace to the public although I am neither charged with any crime nor am I alleged to have committed any bad acts which might be considered to be a crime. In bearing its vendetta against me, the government overlooks the good deeds I do and the 10,000 petitions signed by the public in recognition of my performance for the community. I feel I have been punished and penalized unfairly for nearly three years, not to mention the expense caused throughout my endeavor.

Senator Sam Nunn
Page 2 of 2

April 10, 1989

I once again appealed for public support, this time as a candidate for Governor of the State of New Jersey. I have handsomely surpassed the minimum requirement of signatures to be on the ballot. Ironically, I can be a candidate for Governor who as a public servant leads millions of people. Yet, the Court rules I could not be a candidate in the recent Teamsters Local No. 560 election. I ask you why must the system go to this extreme to prove the ridiculous nature of RICO?

The landmark case of 560 was ended when the Supreme Court did not act to review the ruling against my right to participate in Union democracy. Many think my case should have at least been heard by the Supreme Court. Despite the litigation and its unfair results, what remains clear and needs to be corrected is the flaws of the RICO Law. Congress cannot force the Supreme Court to review the injustice done to me or the subversion of democracy incurred by the Local 560 membership. Congress can re-write the RICO Law such that no other Union man or woman will have their rights to participate in their union and to elect or be elected by the rules of the union, be taken away.

The Rico Law should not be permitted to subvert union democracy.

Sincerely,

Michael Sciarra, afr

MICHAEL SCIARRA
Business Agent
TEAMSTERS LOCAL UNION 560

MS:ll

Faxed: 4-10-89 (202) 224-0072
Mailed Overnight Mail: 4-10-89

Senate Permanent Subcommittee on Investigations

EXHIBIT # 38

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APR 13 1989

MAJORITY OFFICE

February 10, 1989

Mr. Al Laurie
Teamster Local 560
707 Summit Avenue
Union City, NJ

Dear Al,

It is my understanding that you are going to address the U.S. Senate in regards to RICO sometime in March.

I thought it might be helpful to you if a group of your peers expressed their views for you to take with you.

Enclosed please find a letter I wrote, signed by fellow teamster members that share my ideology.

If I can be of any assistance, please feel free to contact me.

Fraternally,

Tom Dalton

Tom Dalton
81 Lackawanna Drive
Stanhope, NJ 07874

Thomas J Smith
Edward O'[illegible]
Harold [illegible]

Enclosed

February 10, 1989

For the U.S. Senate -

Dear Sirs:

We thought that our views on RICO might help to convince you of what an ill-wind its application has brought to trade unionism.

We are all Viet-Nam Veterans and therefore feel that our government "owes" us an open ear.

When Viet-Nam broke out, we all went off to fight because we believed that our country was "right" and we did not question. We thought that we had an obligation to our government as citizens and our leaders would not send us off to war without good cause.

Today, everyone knows that our leaders are human, not omnipotent, and they have made mistakes.

Gentlemen, RICO applied to trade unions is a mistake.

How can a government allow such organizations as the Socialist Party, the Communist Party, the neo-Nazi's and even a man-boy love club exist and put its effort into blocking the functioning of a trade union?

Are we to believe that the intent of this law is to bust unions? I should hope not because everyone knows that labor is the backbone of this nation.

What would happen in this country if RICO were applied to the takeover of a major corporation?

Why not find out if Exxon, AT&T, Coco-Cola ever did anything contrary to RICO to establish their products in overseas markets, then slap them with a RICO suit? How do you think the general public would take that?

If the federal government has no business in the corporate world they have absolutely no right to interfere with a self-governing local trade union.

It is time to sit back and take a fresh look at the Frankenstein the Justice Department has created. The rank and file of our local has suffered numerous losses at the hands of management because of a trusteeship. The companies realized quickly that the trustee's of our local would allow them outrageous tactics against employees and the companies took every opportunity to strike blows against us particularly by firing key union personnel (Shop Stewards, politically active teamster members, etc.). Only when our local was given back to rank & file Executive Board members did the companies decide that they should bargain with us before dictating new policies.

The U.S. does not belong in a trade union. The U.S. should protect a trade union.

It is time for you to re-evaluate your priorities.

We are hard working men and women. We pay our taxes and therefore should expect our elected officials to act in our best interest, not a corporate best interest.

Thank you,

James E. Bartolomier
Valentine N. Ostermann

Thomas J Smith
Tom Jackson
Edward A Sylvester
Howard Krause
Kenneth J Ellyson Jr.
Richard D. Diaz

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It is time for you to re-evaluate your priorities.

We are hard working men and women. We pay our taxes and therefore should expect our elected officials to act in our best interest, not a corporate best interest.

Thank you,

James Pierson
Alexander J. Smith
Richard W Murray
Joseph Arbolino
John E. Gleason
Talmadge
Donny Talmadge